SUMMARY OF TRUST ACCOUNT CONCEPTS AND PROCEDURES

Colorado Supreme Court
Office of Attorney Regulation Counsel

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1. Introduction

This manual is based upon the Colorado Rules of Professional Conduct effective January 1, 2008. The main rule series with regard to trust accounts is Colo. RPC 1.15A – 1.15E. The rule formally known as Colo RPC 1.15 was repealed and readopted as series 1.15A – 1.15E by the Supreme Court on June 17, 2014.

Whenever a lawyer holds the property of a client or a third party, the lawyer must keep that property in a separate trust account, in accordance with the Rules of Professional Conduct. The most important rules relating to financial accounts for Colorado lawyers are Colo. RPC 1.15A – 1.15E.

Colo. RPC 1.15A -1.15E cover many topics, including who must have a trust account, disputes over funds held in trust, service charges on the account, and bookkeeping requirements. Every licensed lawyer in private practice or who is otherwise is required to have trust account should read and know the requirements of these rules, which are located in the Colorado Revised Statutes (Colorado Court Rules Book 1).

Purpose of a Trust Account

The purpose of a trust account is 1) to keep a client's money or a third party's money that the lawyer is in possession of separate from the lawyer's own money and 2) to safeguard a client's or third party's money.

Who Must Have a Trust Account?

Every lawyer in private practice doing business in the state of Colorado who, in connection with a representation, accepts fees for work not yet performed or for expenses not yet incurred, who holds money of a third party, or who receives settlement funds for clients must have a trust account. The need for a trust account most commonly arises when a lawyer is paid a retainer or a flat fee for work to be done in the future. The lawyer must deposit any such funds in a trust account and remove them only as they are earned. House-counsel, government lawyers such as deputy district attorneys, and other similar types of lawyers probably never hold funds belonging to a client or a third party and, therefore, likely do not need a trust account.

2. Basic Requirements for Trust Accounts

What is a Trust Account?

A trust account is an interest-bearing bank account that contains those funds entrusted to the lawyer's care and any advance payment of fees that have not been earned or advance payment of expenses that have not been incurred. A lawyer may also deposit funds sufficient to pay anticipated service charges or other fees for maintenance or operation of the trust account. Such funds shall be identified in the lawyer's records of the account.

Where May Lawyer Have a Trust Account?

A trust account should be maintained at a financial institution doing business in Colorado. Even if a lawyer or law firm participates in Interest on Lawyer Trust Account ("IOLTA") programs in more than one jurisdiction, including Colorado, IOLTA funds that the lawyer or law firm holds in connection with the practice of law in Colorado should be held in the lawyer or law firm's COLTAF account (as defined in Rule 1.15B(2)(b)).

The Office of Attorney Regulation Counsel (ARC) must approve the financial institution, and only those institutions that have entered into a written agreement with ARC are approved. The agreement requires that the institution report to the ARC in the event that any properly payable trust account instrument is presented to the institution when there are insufficient funds in the account to pay it. The ARC annually publishes a list of such approved financial institutions. However, if each client and third person whose funds are in the account is informed in writing by the lawyer that Regulation Counsel will not be notified of any overdraft on the account, and with the informed consent of each such client and third person, a trust account in which interest or dividends are paid to the clients or third persons need not be in an approved institution. All attorneys must file a statement with their annual attorney registration payment that includes the name of the institution where their trust accounts are maintained and identification numbers of each account. For each trust account, the statement must indicate the account number, the name of the account, and the depository institution.

Types of Trust Accounts: the COLTAF Trust Account

One or more of a lawyer's trust accounts may be, but need not be, a Colorado Lawyer Trust Account Foundation ("COLTAF") account, kept in accordance with Colo. RPC 1.15B(b) – (j) and 1.15E. A COLTAF trust account is a pooled interest-bearing, or dividend-paying, insured depository account for funds of clients or third persons that are nominal in amount or are expected to be held for a short period of time. The interest earned on a COLTAF account is paid to the Foundation, which in turn donates the money to charitable causes. No interest from such an account is payable to a lawyer or law firm.

It is up to the lawyer's good faith judgment to determine whether the client or third party's funds are of such a nominal amount, or are expected to be held for such a short time period, that the establishment of a COLTAF account is appropriate. In some cases, a client or a third party may give a lawyer funds that are more than nominal, in which case a COLTAF account is likely NOT appropriate.

Establishment of Separate Trust Accounts

There is no limit on the number of trust accounts a lawyer may maintain. The establishment of separate trust accounts may be warranted when, in connection with a representation, a lawyer is administering estate monies or acting in a similar fiduciary capacity for clients, or when a lawyer has accepted large flat fees or a large retainer. In such circumstances, the lawyer should establish a trust account that is only for those funds.

Trust Accounts Must Be Separate From All Office or Professional Accounts

A lawyer's professional, business, operating or office account, in which all funds received for professional services are deposited, shall be kept separate from the trust account.

Name of Trust Accounts

All trust accounts or COLTAF accounts must be prominently designated as a "trust account" or a "COLTAF Trust Account," respectively. Additionally, the lawyer's business account must be designated as either "*professional account,*" "*operating account*," "*business account*" or "*office account*."

Management of Trust Accounts 1.15C

As an agent, a lawyer is a fiduciary and must appropriately manage client or third party's money. In accordance with Rule 1.15C:

- A lawyer may not use any debit card or ATM card to withdraw funds from a trust account, and cash withdrawals and checks made payable to cash are **prohibited**.

- Only a lawyer admitted to practice law in Colorado or a person supervised by such lawyer may be an authorized signatory on a trust account or may withdraw or transfer funds from or to a trust account.

- At least quarterly, a lawyer should reconcile all trust accounts to ensure that all accounting is up to date.

Bookkeeping Requirements 1.15D

Keeping complete records of the trust account can assist the lawyer in showing that all uses of the client's or third person's money are proper and that the lawyer has kept his or her own money appropriately segregated from client funds. Upon request, the lawyer is required promptly to render a full accounting of what the lawyer has done with money held in a trust account, Colo. RPC 1.15A(b); accordingly, adequate record keeping is essential. See Section 10 below for a complete discussion of the required accounting records.

Besides clients, other people, including the lawyer's creditors, tax agencies, or heirs of a client, may be entitled to review the lawyer's finances. For example, creditors may try to show that the lawyer is keeping his or her own money in the trust account. Complete records are essential to show what the lawyer has done with other people's money.

3. Lawyer's Basic Obligations Re: The Trust Account

Duty to Safeguard

The lawyer must protect the funds (or other property) entrusted to him or her. This means the lawyer must segregate the funds in an approved financial institution.

Duty to Account

When asked by a client or third person for whom the lawyer holds funds, the lawyer must provide an accounting for those funds.

Duty of Confidentiality

Unless the client waives confidentiality, all dealings with client funds are confidential. Whether there is a duty of confidentiality with regard to third party funds is an issue not covered by the Colorado Rules of Professional Conduct.

Duty of Acting in Good Faith

As a fiduciary, the lawyer must act in good faith when dealing with funds of others. The lawyer cannot take advantage of a situation to the detriment of the beneficiary.

Duty to Refund or Pay Funds Promptly

The lawyer must promptly refund unearned fees at the end of a case. Additionally, the lawyer must promptly pay over to clients or third parties funds that belong to them, unless the lawyer is permitted by law or by agreement with the client or third person to continue to hold the funds.

4. Interest Earned on Funds in a Trust Account

Interest Earned is Never the Lawyer's Property

Except for COLTAF trust accounts, all interest earned on funds that the lawyer holds in trust belongs to the client or to the third person for whom the lawyer holds the funds. Colo. RPC 1.15B(h) states that the lawyer is never entitled to this interest.

In many situations, the lawyer will have more than one client's funds in one trust account. The lawyer must allocate interest to each client, which can be very difficult. This is one reason why a COLTAF account is an attractive alternative. All the interest in a COLTAF account goes to COLTAF, thereby avoiding the allocation problem.

Interest Paid to COLTAF

Interest on a COLTAF account is paid directly to COLTAF. Colo. RPC 1.15B(b) states that a COLTAF account should contain only those funds that are "nominal" in amount or that the lawyer expects to hold for a short period of time with the intent that such funds not earn interest in excess of the reasonably estimated cost of establishing, maintaining, and accounting for trust accounts for the benefit of clients or third parties.

5. Commingling

What is commingling?

Colo. RPC 1.15A(a) requires that a lawyer keep funds of third parties or clients separate from his or her own funds. A lawyer commingles funds when he or she places client funds or funds of a third party in the same account with his or her own funds. Commingling can occur in trust account or in a business or personal account.

Lawyers Cannot Use Trust Accounts for Personal Finances.

A lawyer can never use his or her trust account as a personal account for holding or hiding personal assets. Likewise, it would be inappropriate for a law firm to deposit in a trust account the money the firm plans to use on a firm holiday party, for example. Another example of such a problem is a lawyer who has his stock market sales receipts wired into his trust account.

Even if there are no client funds in the trust account, meaning that the account has a zero balance, it is still improper to use the trust account as a personal account.

Why Is Commingling Prohibited?

Commingling places the funds of a client or a third party at risk. The risk arises because the lawyer's funds can be attached, garnished or seized when the lawyer or the lawyer's estate is responsible to a creditor or heir. If the heir or creditor looks for money belonging to the lawyer and finds it in the lawyer's trust account, then it is quite possible that all of the trust account will be taken until it is determined what portion of the money belongs to the lawyer and what portion belongs to the client or third party.

As agents of their clients, lawyers cannot do anything to harm or worsen their client's situation. Accordingly, lawyers must keep their money separate from their client's money.

In the past, the IRS, among other creditors, has seized lawyer trust accounts containing client funds in order to satisfy the lawyer's debts. The IRS will do this when it discovers that the lawyer has his or her own funds in the trust account. If this occurs, the lawyer must take steps to protect the client's funds; however, it is not uncommon for the lawyer to be out-of-town, unreachable, or mentally incapable of protecting the client funds. Thus, the rule of professional conduct requires that funds of clients or third parties be segregated from the lawyer's own property.

Small Amounts to Cover Service Charges, but NO Cushions

Colo. RPC 1.15B(f) permits a lawyer to keep funds in the trust account reasonably sufficient to pay anticipated service charges or other fees for maintenance or operation of the trust account so long as those funds are clearly identified in the lawyer's records. In other words, a lawyer can deposit and keep a small amount of money in the trust account to cover those charges. However, this allowance does not authorize the lawyer to keep a "cushion" of his/her own money in the account.

Some very well-intentioned lawyers have mistakenly thought that they could keep a cushion of their own funds in the trust account in case they made a bookkeeping error and did not have enough money in the trust account. The rules do not allow such a cushion and it is considered to be commingling.

To reiterate: a lawyer's trust account can never have more in it than what the lawyer holds for clients or third parties and a small amount to cover service charges. As discussed below, the lawyer should periodically remove amounts for earned fees from the trust account.

6. Advanced Fees, Costs

Advanced Fees and Removal of Earned Fees from Trust Accounts

Lawyers arrange payment for their services in many different ways. One of the most common payment arrangements is for a lawyer to receive a retainer for work to be done in the future. If a lawyer receives money in advance for work to be done in the future, he or she must place that money in a trust account. According to Colo. RPC 1.5(f), legal fees are not earned until the lawyer confers a benefit on the client or performs a legal service for the client. Accordingly, the lawyer may remove money from a trust account only as it is earned.

The same holds for a lawyer who receives a flat fee for work to be done in the future. There are different ways to arrange with a client about when a flat fee is earned in totality or partially. Some lawyers will use an hourly rate to determine when portions of a flat fee are earned. Others will use a ”task-based” or “event-based” method to determine when a portion or the whole fee is earned.

Costs: Advanced, and Reimbursed

Any time a client gives money to a lawyer to be used for costs in a matter, the lawyer must put those funds in the trust account. When the lawyer uses those funds to pay for costs, the lawyer must write a check on the trust account specifically identifying the date, payee, and purpose of each disbursement.

If the lawyer has paid a cost for the client from the lawyer’s own funds and then the client pays the lawyer for those costs, the lawyer should deposit those funds into the lawyer’s office account, not the trust account.

7. Depositing and Withdrawing Funds from Trust Accounts

Lawyers Must Deposit Funds Intact into Trust Accounts

Lawyers often receive funds from third parties in which the lawyer has an interest. The most common example of this occurs when a plaintiff’s lawyer in a personal injury case receives a settlement check from an insurance company. The lawyer commonly has a contingent fee agreement with the client giving the lawyer a percentage of the settlement proceeds. Before the funds are disbursed, Colo. RPC 1.15C(a) requires that all trust account monies intended for deposit shall be deposited intact, meaning that the entire sum of the check is deposited in the trust account. Depositing the entire sum intact, even though the attorney is owed a portion of the funds, does not constitute commingling according to rule 1.15C(a).

Disbursement of Funds

As soon as the check from the third party, e.g., an insurance company, has cleared his or her bank, then the lawyer should disburse the funds to the client, to those persons who are owed money, such as any experts or court reporters in that case, and to him/herself for legal fees. The lawyer makes this disbursal by making checks to the client and to himself payable to the lawyer's office or professional account for the earned fees.

Note: a lawyer must understand the terminology used by his or her bank. Banks will allow funds to be withdrawn from an account by check, whether it is a trust account or a regular account, even if the bank can still reverse the transaction for a missing endorsement or some other problem. A lawyer should not disburse funds from his or her trust account until such reversal is not possible. Banks use different terms for this event such as "the funds are available," or "the transaction is complete". Check with your particular bank.

8. Disputes Over Funds in a Trust Account

Disputes With A Client

If there is a dispute between the lawyer and his or her client regarding the ownership of the money in a trust account, then the lawyer should keep the money in trust until there is a resolution of the claims. If there is no resolution, the lawyer should suggest means for prompt resolution of the dispute, such as arbitration.

Such a situation occurs, for example, where a lawyer receives an advance retainer of $2,500. A dispute can arise between the lawyer and the client if the lawyer believes that he or she is entitled to take out $1,500 from the advanced retainer in the trust account, but the client has a different point of view, claiming that the lawyer did not do any work. Faced with such a dispute, the lawyer cannot take out the $1,500. Rather, he or she must leave the money in trust and must suggest means for prompt resolution of the dispute, such as fee arbitration. (In the fee arbitration situation, the lawyer would probably withdraw under Colo. RPC 1.16; however, he or she is still obligated to resolve the dispute while holding the money in trust.)

If a portion of the amount held in trust is not disputed, then the lawyer should disburse that amount to whomever it is owed.

Disputes With Third Parties

If a lawyer holds money of a **third-party** in his trust account, and a dispute arises between over what should be done with that money, then the lawyer must keep the disputed amount of money in the trust account and take steps to

resolve the dispute in a timely manner. However, a lawyer should not unilaterally assume to arbitrate a dispute between the client and third party.

Third Party Claims to Funds in a Trust Account

Third parties, such as a client's creditors, may have just claims against funds in a trust account. Life can get even more difficult for a lawyer when the lawyer's client disagrees with the third party as to how the money should be distributed. Because the lawyer is a fiduciary to the third party as well as to his or her client, the lawyer may have a duty to protect such third-party claims against wrongful interference by the client. Therefore, the lawyer may refuse to surrender the funds or property to the client. When a lawyer has been notified that a third party has an interest in money the lawyer holds or will hold for the benefit of a client, the lawyer must either honor that interest or explicitly and timely inform the interested party of his or her intent not to honor the interest. This situation arises most commonly when medical providers notify a lawyer that their medical expenses should be paid out of any settlement for the client.

If the dispute between the client and the third party claimant cannot be negotiated or mediated, then the lawyer will have to file an action in the district court and deposit the disputed funds in the registry of the court. The lawyer must act in a timely fashion to get the dispute resolved.

9. Use of Credit Cards for Payments by Clients of Advanced Retainers, Flat Fees or Earned Fees

Lawyers in Colorado may accept payment by credit card; however, there are various problems that arise in doing so. The specific agreement that a lawyer has with his or her bank may affect the lawyer's ethical obligations.

Payment of Advanced Fee by Credit Card

When a lawyer accepts payment by credit card for advanced fees, those fees must go into the trust account. Some banks will not permit this arrangement. In the event that a bank does not do so, then the lawyer must take immediate steps to see that the funds are transferred to the trust account from the account in which the bank deposits them.

Furthermore, banks will usually charge the lawyer a percentage of the credit card amount as a fee. For instance, on a $1,000 charge, the bank may charge the lawyer $40. Generally, such a charge is considered overhead to the lawyer and is not chargeable to the client. (*See* C.R.S. §5-2-212).

Payment of Flat Fee by Credit Card

If a client pays a flat fee by credit card for work to be done in the future, then all of that payment must be placed in the lawyer's trust account. Because a

flat fee for work in the future is equivalent to a payment of an advanced fee, the issues discussed immediately above apply. (Some banks may not allow a lawyer or any vendor to use a credit card for services to be rendered in the future.)

Payment of Earned Fees by Credit Card

If a lawyer accepts payment of an earned fee by credit card, then that payment must be deposited in the lawyer's professional or office account. If the credit card agreement that the lawyer has with the bank requires deposits into the lawyer's trust account, then the lawyer needs to withdraw the credit card payment for earned fees from the trust account as soon as possible and no later than the next billing cycle, presumably within 30 days.

Bank Card Agreements With Lawyers

Some banks require that the lawyer sign a merchant agreement that authorizes the bank to reverse a transaction if the "customer" or client objects to the charge. A reversal like this can have serious ethical implications. If the lawyer has already withdrawn funds from the trust account believing that they are earned, a bank reversal from the trust account can result in another client's money being taken. The lawyer who has the bank deposit charges to the trust account must be extremely careful of a reversal. If a reversal occurs, the lawyer in this situation must replace the funds in the trust account immediately so that no other client funds are at risk.

10. Required Accounting Records

Colo. RPC 1.15D is very specific as to the records a lawyer must keep relating to trust accounts and to any other bank account associated with the lawyer's practice of law. The lawyer's record keeping system for both the trust account and any accounts that "concern" the lawyer's practice of law, must contain:

> (1) Appropriate receipt and disbursement records of all deposits in and withdrawals from all trust accounts and any other bank account that concerns the lawyer's practice of law, specifically identifying the date, payor and description of each item deposited as well as the date, payee, and purpose of each disbursement.
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> (2) An appropriate record-keeping system identifying each separate person or entity for whom the lawyer holds money or property in trust, for all trust accounts, showing the payor of all funds deposited in such accounts, the names and addresses of all persons for whom the funds are or were held, the amount of such funds, the description and amounts of charges or withdrawals from such accounts, and the names of all persons to whom any such funds were disbursed;

(3) Copies of all retainer and compensation agreements with clients (including written communications setting forth the basis or rate for the fees charged by the lawyer as required by Colo. RPC 1.5(b) and copies of all writings, if any, stating other terms of engagement for legal services);

(4) Copies of all statements to clients and third parties showing the disbursement of funds to them or on their behalves;

(5) Copies of all bills issued to clients;

(6) Copies of all records showing payments to any persons, not in the lawyer's regular employ, for services rendered or performed; and

(7) Paper copies or electronic copies of all bank statements and all canceled checks.

These records must be kept for **SEVEN** years after the event they record.

11. Delegation of Trust Account Duties

It is common practice for a lawyer to delegate the day-to-day bookkeeping duties associated with his or her trust account. Usually, the person to whom the lawyer delegates these duties is a non-lawyer. Although delegating bookkeeping duties is an acceptable practice, the lawyer must remember that he or she cannot delegate the ultimate responsibility for administering the trust account properly. Accordingly, the lawyer must take steps to properly train and supervise employees who handle the day-to-day trust account duties.

Training Others

When a lawyer delegates the day-to-day trust account duties, the lawyer must train and educate the person about the proper way to handle client or third party funds. A lawyer should emphasize the importance of keeping client or third party funds separate from the lawyer or firm's funds.

Supervision

The lawyer must routinely supervise and check the work of the person in charge of the day-to-day bookkeeping of the trust account. In other words, it is not enough for the lawyer to train someone to run the trust account, and then never review that person's work or procedures again.

A non-lawyer may be a signatory on a trust account; however, a lawyer licensed in Colorado must supervise that person. Supervision means that the lawyer must take an active role in overseeing what that non-lawyer does.

Even when the lawyer delegates the duties for maintaining the trust account, the lawyer must be directly involved on a no less than monthly basis. At a minimum, the lawyer who delegates should do the following:

- Review monthly bank statements.
- Review trust account general ledger and client ledgers monthly.
- Review images of cancelled checks monthly.
- Review the trust account reconciliation monthly.

The following trust account reconciliation should be done on a monthly basis:

1) There should be a reconciliation of all the client ledgers against the general ledger or check register to ensure that:

   a) Deposits shown in client ledgers are shown in general ledger or check register.
   b) Withdrawals in client ledgers are shown in the general ledger or check register.
   c) Total of client ledgers must equal balance in the general ledger or check register.

2) Then the general ledger or check register should be reconciled against the bank statement by using a normal balancing procedure.

Problems of Junior Attorneys

It is not unusual for junior attorneys, whether partners or associates in a law firm, to have no contact with the trust account. Often, a senior partner or a firm manager who is supervised by a senior partner controls the management of the trust account. In this situation, it is important for the junior lawyer to realize that for ethical purposes, he or she is still responsible for money they receive from a client or on behalf of a client. For instance, an associate may accept a settlement check from an insurance company on behalf of a client. That associate must take steps to see that the money is properly deposited into the trust account until disbursed. The associate must ensure that further dealings with the client funds are done properly. Obviously, this can place a junior lawyer in a difficult situation.

12. Pointers on Everyday Trust Account Management

a. Do not sign blank trust account checks. If you do so, you risk someone filling them in and using them for improper purposes.

Do not allow your staff to make internet transfers out of trust account. If you do so, you risk someone transferring out client funds and using them for improper purposes.

b. Receive trust account bank statements unopened. You can then review the statement before someone could tamper with it.

c. Checks on the trust account can never be made payable to cash. Checks from the trust account should never be used for the lawyer's personal expenses.

d. If you delegate duties, do not have one person responsible for all trust account duties. The person who balances the bank statement should not be the person who writes checks on the account.

e. Use different colored checks and/or checkbook covers for your trust account and your professional account so as not to confuse the two when you are in a hurry.

f. Notify the client or third party by bill, letter, or otherwise when you take money you held for them out of trust. Although not required by Rules 1.15A – 1.15E, it is the best business practice to ensure that you have actually earned the retainer funds before you take possession of the retainer funds.

g. Trust accounts must be labeled "TRUST ACCOUNT" or "COLTAF TRUST ACCOUNT."

h. Office accounts (business or firm account) must be labeled "PROFESSIONAL ACCOUNT," "BUSINESS ACCOUNT" "OPERATING ACCOUNT," or "OFFICE ACCOUNT."

13. The Problem of the Missing Client For Whom Lawyer Has Money in Trust Account.

Sometimes a lawyer will have money in his or her trust account that belongs to a client or a third party who cannot be found.

Rule 1.15B(k) of the Rules of Professional Conduct advises a lawyer on how to handle this situation:

If a lawyer discovers that the lawyer does not know the identity or the location of the owner of funds held in the lawyer's COTAF account, or the lawyer discovers that the owner of the funds is deceased, the lawyer must make reasonable efforts to identify and locate the owner or the owner's heirs or personal representative. If, after making such efforts, the lawyer cannot determine the identity or the location of the owner, or the owner's heirs or personal representative, the lawyer must either

(1) continue the hold the unclaimed funds in a COLTAF or other trust account or
(2) remit the unclaimed funds to COLTAF in accordance with written procedures published by COLTAF and available through its website or upon request.

A lawyer remitting unclaimed funds to COLTAF must keep a record of the remittance pursuant to Rule 1.15D(a)(1)(c). If, after remitting unclaimed funds to COLTAF, the lawyer determines both the identity and the location of the owner or the owner's heirs or personal representative, the lawyer shall request a refund for the benefit the owner or the owner's estate, in accordance with written procedures that COLTAF shall publish and make available through its website and shall provide upon request.

Rule 1.15D(a)(1)(C) sets forth the record keeping requirements for any unclaimed funds remitted to COLTAF pursuant to Rule 1.15B(k).

Additional guidance about what steps are required prior to remitting unclaimed funds to COLTAF is located in Comment [7] to Rule 1.15A, which provides:

What constitutes "reasonable efforts," within the meaning of Colo. RPC 1.15B(k), will depend on whether the lawyer does not know the identity of the owner of certain funds held in a COLTAF account, or the lawyer knows the identity of the owner of the funds but not the owner's location or the location of a deceased owner's heirs or personal representative. When the lawyer does not know the identity of the owner of the funds or a deceased owner's heirs or personal representative, reasonable efforts include an audit of the COLTAF account to determine how and when the funds lost their association to a particular owner or owners, and whether they constitute attorneys' fees earned by the lawyer or expenses to be reimbursed to the lawyer or a third person. When the lawyer

knows the identity but not the location of the owner of the funds or the location of the owner's heirs or personal representative, reasonable efforts include attempted contact using last known contact information, reviewing the file to identify and contact third parties who may know the location of the owner or the owner's heirs or personal representative, and conducting internet searches. After making reasonable but unsuccessful efforts to identify and locate the owner of the funds or the owner's heirs or personal representative, a lawyer's decision to continue to hold funds in a COLTAF or other trust account, as opposed to remitting the funds to COLTAF, does not relieve the lawyer of the obligation to maintain records pursuant to Rule 1.15D(a)(1)(A) or to determine whether it is appropriate to maintain the funds in a COLTAF account, as opposed to a non-COLTAF trust account, pursuant to Colo. RPC 1.15B(b). When COLTAF has made a refund to a lawyer following the lawyer's determination of the identity and the location of their owner or the identity and location of the owner's heirs or personal representative, the lawyer's obligations with respect to those funds are set forth in Colo. RPC 1.15A or are subject to applicable probate procedures or orders. The disposition of unclaimed funds held in the COLTAF account of a deceased lawyer is to be determined in accordance with written procedures published by COLTAF.