



AS THE PROFESSION AGES - PRACTICAL APPROACHES AND A CLIENT PROTECTION PERSPECTIVE

2019 NCPO REGIONAL WORKSHOP

PRINCETON, NJ

SEPTEMBER 25, 2019

WINDING DOWN

I. WITH NO PLAN IN PLACE

R.1:20-19 Appointment of attorney trustee

- Disability
- Death

II. WITH PLAN

Designation by will where solo

III. RETENTION OF RECORDS REQUIREMENT

RPC 1.15(a)

- Seven (7) years after the event

R.1:21-6(b)

- Financial records for seven (7) years

ACPE Opinion 692 (2001), as supplemented (2002)

IV. SALE OF LAW PRACTICE

RPC 1.17

R.1:21-1B(d)

- Limited liability companies

V. LOSSES COVERED BY THE FUND

R.1:28-1(a)

- To cover the losses caused by dishonest conduct of members of the Bar of this State.

VI. In re: Stern, 92 N.J. 611 (1983), page 619

“In New Jersey it has not been held that a general retainer fee must be deposited in a trust account... absent an explicit understanding that the retainer fee be separately maintained, a general retainer fee need not be deposited in an attorney’s trust account.”

ACPE Opinion 649 (nonrefundable retainer)

VII. RPC 1.16(d)

upon termination of representation a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests such as... refunding any advance payment of fee that has not been earned or incurred.

VIII. IS IT DISHONEST TO DIE?

Is it dishonest to die without making provision for the return of the unused and/or unearned retainers?

IX. R. 1:28-3(a)(2)

Where an Ethics Committee does not act and an attorney is deceased, the trustees of a fund may consider timely application directly provided that the trustees find that claim is an appropriate matter for their consideration.



QUESTIONS

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