

WASHINGTON STATE BAR ASSOCIATION

Advisory Opinion: 2108

Year Issued: 2005

RPC(s): RPC 1.14

Subject: web-based payment processing service

The Inquirer asks about the ethical propriety of using a web-based payment processing service ("the service") to receive payments from clients. According to the Inquirer, the lawyer initially sets up a web account with the service. Clients then log on to the service's website, and make credit card payments on-line to the lawyer's account. The service immediately notifies the lawyer via email that a payment has been placed into the lawyer's account. The lawyer then enters the account on-line and transfers payment to the correct lawyer's account (trust or operating). We assume that the lawyer will offer the service as an option for account payment, and that it will not be required. We also assume that any cost associated with the service will be paid by the lawyer.

Unlike a traditional credit card arrangement, the client's payment will be placed initially in the lawyer's account with the service. Under RPC 1.14(a), all funds of clients paid to a lawyer or law firm, including advances for costs and expenses, and funds belonging in part to a client and in part presently or potentially to the lawyer or law firm, must be deposited into a trust account meeting the requirements of RPC 1.14(c). Such funds, therefore, must be placed in trust and must not be placed in the lawyer's account with the service for transfer by the lawyer. This is because client funds in the lawyer's account with the service are not safeguarded as required by RPC 1.14.

Assuming that the lawyer investigates the service to determine that accepting payments through it will be reliable and secure, and that the lawyer clearly communicates to the client in advance how the service will work and how payments will be processed by the lawyer, the Committee does not see any ethical problem associated with utilizing the service to collect payments belonging only to the lawyer from clients.

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