

RULES OF THE SUPREME COURT OF THE STATE
OF NEW HAMPSHIRE

Rule 50. Trust Accounts.

(1) *Interest-Bearing Trust Accounts.* A member of the New Hampshire Bar shall create or maintain an interest-bearing trust account for clients' funds which are nominal in amount or to be held for a short period of time and must comply with the following provisions:

A. An interest-bearing trust account shall be established with any bank or savings and loan association authorized by federal or State law to do business in New Hampshire and insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation ("financial institution"). Funds in each interest-bearing trust account shall be subject to withdrawal upon demand.

B. The rate of interest payable on any interest-bearing trust account shall be the same rate of interest paid by the depository institution for all other holders of similar accounts. Interest rates higher than those offered by the institution on regular checking or savings accounts may be obtained by a lawyer or law firm on some or all deposited funds so long as there is no impairment of the right to withdraw or transfer principal immediately.

C. Lawyers, law firms or others acting on their behalf when depositing clients' funds in an interest-bearing account shall direct the depository institution:

(i) to remit interest or dividends, as the case may be, at least quarterly, to the New Hampshire Bar Foundation; and

(ii) to transmit with each remittance to the Foundation a statement showing the name of the lawyer or law firm for whom the remittance is sent; and

(iii) to transmit to the depositing lawyer or law firm at the same time a report showing the amount paid to the Foundation.

D. The interest or dividends received by the Foundation shall be used solely by the Foundation for the following purposes:

(i) for the support of civil legal services to the disadvantaged;

(ii) for public education relating to the courts and legal matters;

(iii) for such other programs as may be approved by the supreme court.

Such income shall be applied only to activities permitted to be conducted by organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954, as from time to time amended.

E. Attorneys, either individually or through their firm organizations, shall complete an annual Authorization to Financial Institutions by August 1 of each year listing any interest-bearing trust account(s) for clients' funds under paragraph (1) and directing the New Hampshire Bar Foundation to act on behalf of the depositing lawyer or law firm to convert clients' non-interest bearing trust account(s) to interest-bearing trust account(s) under provisions of Rule 50(1).

F. A lawyer or law firm who declines to maintain accounts described in subdivision (1)A of this rule must submit a Notice of Declination in writing to the Clerk of the Supreme Court by August 1 of any year for the period beginning such August 1 and extending until such declination is revoked.

(i) Notwithstanding the foregoing, any participating lawyer or law firm may petition the Court at any time and may be granted leave to file a Notice of Declination at a time other than that specified above. An election to decline participation may be revoked at any time by filing a request for enrollment in the program.

(ii) A lawyer or law firm that does not file with the Clerk of the Supreme Court a Notice of Declination in accordance with the provisions of this rule shall be required to maintain accounts in accordance with subdivision (1)A of this rule.

G. This rule may be subsequently amended to effectuate its purposes or to comply with any amendments to the Internal Revenue Code.

(2) Attorney's Financial Records:

A. Every attorney shall maintain records of the handling, maintenance and disposition of all funds or securities of a client at any time in his possession from the time of receipt to the time of final distribution and shall preserve such records for a period of six (6) years after final distribution of such funds or securities or any portion thereof. Specifically, every attorney or the firm organization shall maintain a trust accounting system that shall include at the minimum, (1) a ledger or system showing all receipts and disbursements from the trust account or accounts with appropriate entries identifying the source of the receipts and the nature of the disbursement, and (2) a separate accounting page or columns for each client for whom property is held, which shall show all receipts and disbursements and carry a running account balance. Any other system that preserves the above-mentioned features and sufficiently accounts for trust funds may also be used. In addition there shall be maintained an index, or equivalent single source for identification of all trust accounts, including special interest-bearing trust accounts, probate accounts, custodial accounts and client agency accounts.

B. All cash property of clients received by attorneys shall be deposited in one or more clearly designated trust accounts (separate from the attorney's own funds) in financial institutions. Any attorney depositing client funds into an out-of-state financial institution shall file a written authorization with the Clerk of the Supreme Court authorizing the Court or its agents to examine and copy such out-of-state account records. Under no

circumstances may any attorney use out-of-state banks other than those located in Maine, Vermont, Massachusetts, or the state in which the attorney's office is situated, without obtaining prior written approval from the Supreme Court.

C. Only those retainer fees, that are refundable if not earned, and as to which the attorney has so informed the client, shall be deposited in the trust account(s) described above. These shall not be withdrawn from the account of the attorney or firm organization until earned. All other retainer fees may be deposited in the attorney's general operating account.

D. All funds received as proceeds of collections or awards on behalf of a client shall be deposited in gross in the trust account(s) required above, and shall not be charged with a fee until distribution.

E. The practice of law in the form of a partnership or a professional association shall not relieve an attorney from the obligation of compliance with this Supreme Court Rule.

F. Each bank account required by Rule 50, except those accounts excluded by Rule 50-A(3), shall be reconciled by the lawyer or law firm on a monthly basis. Such reconciliation shall disclose (a) the balance of the account according to the bank's records; (b) the balance of the account according to the lawyer or law firm's records; (c) a detailed listing of all differences between items (a) and (b); (d) a listing of all clients' funds in the accounts as of the reconciliation date; and (e) a detailed listing of all differences between items (b) and (d).