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State Bar CTAPP trust account mandatory compliance reviews

THE 2025 CHANGES TO THE STATE BAR'S PROSECUTORIAL RULES ARE MONUMENTAL

Now more than ever before, precise trust account record keeping is essential to avoiding significant discipline or disbarment. Several years in the making, the State Bar of California ("State Bar") has finally issued its internal regulatory rules regarding the application of the new "Client Trust Accounting Protection Program ("CTAPP"). (See State Bar of California Rules of the State Bar, Rules 2.4, 2.5 and 2.6 (February 21, 2025) ("State Bar Rules"); see also, Assem. Bill 3279, (State Bar Act, Committee on Judiciary, Ch. 227, signed into law on September 12, 2024).

Since 2020, the State Bar has faced intense scrutiny regarding its policing of attorney trust accounts. Since that time, the California Supreme Court and Legislature have demanded that it strengthen its ability to ensure perfection in attorney-client trust account bookkeeping. The State Bar, Supreme Court and Legislature all agree that "public protection" is the highest goal of the State Bar's activities. (Bus. & Prof. Code, § 6001.1 ["Protection of the public ... shall be the highest purpose of the State Bar..."] (eff. January 1, 2019).)

The tools provided to the State Bar to effectuate public protection are called "proactive regulation." (State Bar of California *Handbook on Trust Accounting*, page 9, (citing *California Supreme Court Rules of Court*, Rule 9.8.5 (pub., 2024 and retrieved on December 29, 2025 <https://www.calbar.ca.gov/legal-professionals/maintaining-compliance/client-trust-accounting-iolta/client-trust-accounting-handbook>) (hereinafter referred to as the "Handbook"); see also State Bar Rules 2.24., 2.25 and 2.26.)

On September 29, 2025, the State Bar began notifying selected law firms that they would be subjected to CTAPP's mandatory audits. (See "State Bar Launches Mandatory Client Trust Accounting Reviews," State Bar of California website, September 29, 2025), <https://www.calbar.ca.gov/news/state-bar-launches-mandatory-client-trust-account-compliance-reviews>). As of the date of this article, over 100 firms have been notified that they will be required to undergo this in-depth, State-Bar-selected CPA-conducted review. (*Ibid.*) While long referred to as random, the selection process for these audits actually includes factors such as whether a law firm handles "client facing" types of cases such as probate and personal injury.

Further, CTAPP violations are now being actively used as the basis of discipline. (See e.g., *Lee v. Kim*, 2025 WL 2473960, at *3 (Cal.Ct.App. Aug. 28, 2025) (Not citable for publication) (attorney disciplined for CTAPP violations).)

While the CTAPP Compliance Program is new, trust fund accounting misappropriation has long been one of the most serious violations of a lawyer's ethical obligations. Even significant mitigation factors such as full client restitution, successful treatment in alcohol or drug abuse programs and numerous letters of recommendation from judges, colleagues and employers may not be sufficient to meet an attorney's "burden of proving that the [disciplinary] recommendation of the review department was erroneous or unlawful." (*In re Demergian* (1989) 48 Cal.3d 284, 297, 768 P.2d 1069, 1076.)

The 2025 changes to the State Bar's prosecutorial rules are monumental. Indeed, in order to under-

stand the specificity of the new rules, it is advisable that every personal injury attorney, whether the newest associate or the most senior partner personally read the Handbook. It is also highly recommended that every attorney whose firm handles client monies on trust accounts watch one of the detailed online videos presented by State Bar's newly expanded Division of Regulation. As the State Bar's own materials repeat over and over, "to play the game, you must know the score," and that score is "zero."

Constitutionality of regulation of client trust funds

The constitutional authority granting the State Bar broad powers to demand and subpoena an attorney's client trust funds was established many decades ago in *Doyle v. State Bar* (1982) 32 Cal. 3d 12, 20. Doyle was facing a five-year suspension for failing to pay a client \$32,000 in settlement funds and having a negative trust account balance of \$140.00. Doyle made restitution to the client, who then withdrew the complaint. However, as it was Doyle's second complaint, the State Bar continued to proceed with disciplinary charges.

In his challenge, Doyle asserted his "constitutional rights" to have his client trust accounts remain private under the California Constitution Article I, Section 1. However, the State Bar has long had statutory authority to subpoena bank records for trust accounts. (Bus. & Prof. Code, § 6069, subd. (a).) Even so, as constitutional protections of privacy sometimes trump mere statutes, the California Supreme Court has already evaluated whether privacy protections of attor-

neys and clients outweigh the State Bar's claim for banking information:

Assuming, however, that petitioner's clients had a reasonable expectation of privacy regarding their financial information contained in petitioner's files, that privacy interest is not absolute but must be balanced against the need for disclosure. [citations omitted].

(*Doyle v. State Bar* (1982) 32 Cal. 3d 12, 20 [comparing an attorney's privacy rights with the privacy rights of a patient's medical records in physician licensing reviews. The Supreme Court concluded that need for banking records to protect the public outweighed the need for privacy. It also noted the State Bar was required to keep the information confidential.].)

More than just your bank records

Today's new Compliance Review rules demand more than mere bank records. The State Bar now may demand the production of an attorney's complete files as they relate to the processing of a settlement, including releases, emails, deposit slips and potentially even lien negotiations. While these rules seem to go too far, statutes have long authorized broad subpoena powers:

Under BP&C 6069(a)...all lawyers admitted to practice in California shall be deemed to have irrevocably authorized disclosure to the State Bar and the Supreme Court of *all trust account records*, provided no such records shall be disclosed to the State Bar absent a subpoena pursuant to section 6049.

(*In Matter of Member W.*, No. 93-0-17837, 1996 WL 799132, at *2 (Cal. Bar Ct. Dec. 19, 1996).)

Under *Doyle*, the State Bar's new rules must not violate the California Constitution's privacy protections. While it remains to be seen whether the State Bar will go too far in its demands for documentation (paper and electronic), case law and California statutes already provide the founda-

tion for the CTAPP review demands.

Seven "key concepts" to know

While it is important to read Rules of Professional Conduct 1.15 (Safekeeping Funds), Rule 1.4 (Client Communication) and Rule 5.1 and 5.3 (Nondelegable Duties of Supervision), these are only the foundations for the "key concepts" that put these rules into practical terms.

Key Concept 1: Separate clients are "separate accounts"

The first fundamental "key concept" in the Trust Accounting Handbook is that each client's funds must be accounted for separately. (See Rule 1.15(d)(3), (e); Standard (1) (a).) This does not mean opening a separate trust account for each client. The State Bar expects that attorneys are using individual client ledgers to track each client's monies separately from others in their IOLTA. "Client A's money can never be used to pay Client B." (Handbook, Page 8). If a Trust Account balance dips below what is owed to Client B, it is not adequate to put in an attorney's own money after the fact to bring the balance back up to include all of Client B's settlement monies. Balancing each client ledger every month will assure that every client's monies are being kept in trust safely and accurately.

Key Concept 2: You can't spend what you don't have

Each client's ledger must be kept separately from all other clients. The example used by the State Bar Handbook is when an attorney has \$500 in trust for client A, but writes a check to client A for \$1,500. The extra \$1,000 can only have come from another client's funds. It is not adequate, again, to simply "replace" the funds at a later date. Writing the check in excess of what is being held for client A is actually considered misappropriation *by the attorney*. Accurate client ledger balances will help avoid such errors.

Key Concept No.3: There is no such thing as a 'negative balance'

In the State Bar's view, "negative balances" in an IOLTA elevate an index of suspicion because they

cannot happen. Attorneys should not be surprised the handbook states expressly that attorneys cannot rely on "automatic overdrafts" or errors by the bank in failing to clear funds. (Handbook, page 8.)

This does not mean that attorneys cannot keep a small amount of funds in their trust account for bank fees – an attorney is responsible for knowing what kind of fees a bank may charge, and use this information to determine a reasonable amount. However, in order to reconcile bank charges, attorneys should track those charges just as if they were a client account in a separate "bank charges" ledger. (Handbook, page 33.)

When creating a bank charges ledger, law firms may discover unaccounted extra funds, very likely funds that the attorney did not pay themselves over time. These unaccounted for fees need to be taken out of trust accounts immediately – it is part of your duty to diligently distribute client funds which include your fees. (See Comment 6 to Rule 1.151.)

Key Concept 4: Timing is everything

While it seems obvious, attorneys must pay special attention to when funds have cleared in distributing settlement checks. Bank rules all differ with regard to when checks will post if deposited at the end of the day, and when a check's funds are cleared for release. Again, merely knowing that there is "enough" in the account to cover Client A's money is insufficient – you are in essence taking money from other clients to cover Client A's check even if the account in general remains positive.

Monthly reconciliation may help to avoid problems – over many weeks, settlement checks may not have been deposited by a client, causing an account to look as if it has sufficient funds. Each month, it is a good practice to look for checks that were written but not cashed. Following up with clients to find out what is causing the delay may be a good practice to avoid errors in timing.

Key Concepts 5 and 6: To play the game, you must know the score: ZERO

The State Bar materials are insistent: The end goal of all audits must

be a perfect zero. Errors must be corrected and explained in writing. All fees must be promptly disbursed per client instruction. And all of it must be balanced to the penny, every month. The goal of zero balances simply cannot be overstated.

In order to show the State Bar that you have reached this level of accuracy, it demands three accounting tools, which cross-reference each other. Sample spreadsheets showing the types of information required are located on the State Bar website. This includes (a) a client ledger, (b) a trust account ledger, (c) *monthly* reconciliation report. The State Bar refers to this as a “three-legged stool.”

What remains to be seen is how this will be analyzed by the State Bar’s certified public accountants (actually, these are State Bar-approved Certified Public Accountants). In most cases, fees for being audited will be paid by the law firm being audited. (State Bar Rule 8.8.5(a)(2)(B).) Solo lawyers and small firms with gross income of \$150,000 or less may apply for an exemption from hiring the outside accountant, but they will still need to comply with the audit.

To date, only four CPA firms have been approved. The State Bar itself suggests that it will cost between \$10,000 to \$25,000 per audit. The audit may include determining

whether or not a client received their settlement funds in a reasonable amount of time. Query whether or not this is not an accounting function, but the practice of law? Also, is the provision of client-attorney emails to this third party a violation of attorney client privilege or privacy? Will the CPA be able to review the third-party software case-management software that most firms use, like Clio, Filevine or proprietary software? Or will all files need to be converted to Quickbooks or another platform?

Regardless of how “the game” is played, getting to “zero” is what the State Bar will demand. It is that simple.

Key Concept 7: Always maintain an audit trail

Many firms provide clients with an accounting at the end of a case, either as a routine practice for every case or perhaps only when a client demands one. However, the State Bar’s trust accounting expectations will go far beyond the accounting letter created at the close of a case. The State Bar’s Handbook identifies specifically what it believes an attorney should track for every case: bank statements, checkbook stubs, canceled checks, copies of disbursements (including wire and electronic transfer confirmations), deposit slips, records of deposits (including depos-

ited check images and transfer confirmations).

The Handbook goes even further: It requires that these records be organized chronologically within a folder or binder. It suggests that each folder or binder include both the account name *and* the time covered. While seemingly daunting, computerized folders and emails make this much easier than it seems. That said, attorneys should not rely on banks to maintain these records online – it is imperative that any check images, for example, be downloaded and saved. Banks change their policies, go out of business, accounts close – any number of factors could cause important audit trail documents to go missing. 

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