District of Columbia
Court of Appeals

No. M-235-09

BEFORE: Washington, *Chief Judge*; Ruiz, Glickman, Kramer, Fisher, Blackburne-Rigsby, Thompson, and Oberly, *Associate Judges,* and *Reid*, Associate Judge-Retired.*

A M E N D E D O R D E R
(FILED - April 20, 2011)

On consideration of the letter from the President of the District of Columbia Bar, requesting that the court amend its March 22, 2010, order which amended the Rules Governing Interest on Lawyers' Trust Accounts (IOLTA), and the published Clean Version of Rule 1.15 - Safekeeping Property, it is

ORDERED that Rule 1.15 of the District of Columbia Rules of Professional Conduct (Safekeeping Property") is hereby amended and attached to this order as Appendix II. The following sentence was inadvertently omitted from subsection (a): "Other property shall be identified as such and appropriately safeguarded." It is

FURTHER ORDERED that the Clerk of the Court shall publish this order and Appendix II on the website of the District of Columbia Court of Appeals, www.dcappeals.gov, and shall transmit this order and Appendix II electronically and by written copy to the District of Columbia Bar, the Board on Professional Responsibility, and Bar Counsel on this date.

ENTERED BY DIRECTION OF THE COURT:

JULIO A. CASTILLO
Clerk of the Court

*Judge Reid's status changed to Associate Judge-Retired on April 7, 2011.

Appendix II

Clean Version - D.C. Rule of Professional Conduct 1.15 as Amended, Effective August 1, 2010

Rule 1.15—Safekeeping Property

(a) A lawyer shall hold property of clients or third persons that is in the lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of clients or third persons that are in the lawyer's possession (trust funds) shall be kept in one or more trust accounts maintained in accordance with paragraph (b). Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) All trust funds shall be deposited with an "approved depository" as that term is defined in Rule XI of the Rules Governing the District of Columbia Bar. Trust funds that are nominal in amount or expected to be held for a short period of time, and as such would not be expected to earn income for a client or third-party in excess of the costs incurred to secure such income, shall be held at an approved depository and in compliance with the District of Columbia's Interest on Lawyers Trust Account (DC IOLTA) program. The title on each DC IOLTA account shall include the name of the lawyer or law firm that controls the account, as well as "DC IOLTA Account" or "IOLTA Account." The title on all other trust accounts shall include the name of the lawyer or law firm that controls the account, as well as "Trust Account" or "Escrow Account." The requirements of this paragraph (b) shall not apply when a lawyer is otherwise compliant with the contrary mandates of a tribunal; or when the lawyer is participating in, and compliant with, the trust accounting rules and the IOLTA program of the jurisdiction in which the lawyer is licensed and principally practices.

(c) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property, subject to Rule 1.6.

(d) When in the course of representation a lawyer is in possession of property in which interests are claimed by the lawyer and another person, or by two or more persons to each of whom the lawyer may have an obligation, the property shall be kept separate by the lawyer until there is an accounting and severance of interests in the property. If a

dispute arises concerning the respective interests among persons claiming an interest in such property, the undisputed portion shall be distributed and the portion in dispute shall be kept separate by the lawyer until the dispute is resolved. Any funds in dispute shall be deposited in a separate account meeting the requirements of paragraph (a) and (b).

(e) Advances of unearned fees and unincurred costs shall be treated as property of the client pursuant to paragraph (a) until earned or incurred unless the client gives informed consent to a different arrangement. Regardless of whether such consent is provided, Rule 1.16(d) applies to require the return to the client of any unearned portion of advanced legal fees and unincurred costs at the termination of the lawyer's services in accordance with Rule 1.16(d).

(f) Nothing in this rule shall prohibit a lawyer from placing a small amount of the lawyer's funds into a trust account for the sole purpose of defraying bank charges that may be made against that account.