

RPA News

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News update for all practitioners from the Victorian Legal Services Board + Commissioner

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Trust accounts: findings from a recent investigation

Early in 2015 the Victorian Legal Services Board conducted a focussed investigation into a similar group of trust accounts. The objective was to identify all issues within this group of accounts and encourage the account holders to address suggestions arising.

The investigation revealed several common and often interconnected issues which were of utmost importance to the Board. Errors identified involved breaches of both the legislation and the trust account regulations. These errors related to the recording of transaction information, intermixing of trust money, reporting of irregularities and reconciliation of accounts.

I am publishing the descriptions of the errors and the recommendations for their prevention in an effort to help all lawyers who have dealings with trust accounts to be more aware of some common problems the Board sees in trust account management.

i) Recording trust transactions

A clear majority of errors related the use of manual trust ledger recording systems for recording trust transactions. Inadequate details were recorded in trust accounts ledgers, trust account receipt books and payment cash books; for EFT payments and on receipts issued for payments into the trust account.

In these matters the problems often occurred where the account holders were moving from a manual system to a computerised accounting program and the new computer systems were still being established. The specific lesson for law practices here is that those who use manual accounting systems, or who are converting to a computerised system, must pay particular attention to how each transaction is recorded.

ii) Intermixing trust money

Several breaches were identified where third parties inadvertently paid trust money into a non-trust account, or where non-trust money was mistakenly paid into a trust account. These errors could be avoided by ensuring invoices clearly articulate the correct account for funds to be paid into.

iii) Reporting irregularities

We noted in several instances there were delays in reporting trust account irregularities to the Board. This was often related to the intermixing issue. Trust account holders are reminded of their obligations to remedy any errors and report them to the Board without delay.

iv) Reconciliations of accounts

Infrequent account reconciliation is also a factor contributing to the delayed reporting of irregularities. Accounts should be reconciled regularly to limit the risk of deficiencies going unreported for an unnecessarily long period of time. This will also assist the prompt restoration of deficiencies when they are identified.

The Law Institute of Victoria has prepared the [Legal Profession Uniform Law Trust Guide](#) to assist trust account holders and their external examiners to understand the changes to the trust account rules and regulations following the shift to the Uniform Law.

Law Practices receiving money from Registered Conveyancers

A further concern noted by the Board recently is the number of instances where a law practice has received money from a registered conveyancer, without having undertaken any legal work for that conveyancer.

In such circumstances this money is **not considered trust money** as it was not received in association with work undertaken by the law practice. The money is therefore not protected by the Fidelity Fund.

Receiving money from a third party without an understanding of its origin, or knowledge about the money's owner, exposes practices to a significant level of risk. In addition the conveyancer may be avoiding the cost of maintaining their own record-keeping process by passing on the cost and obligation of record keeping to the law practice.

The above matters, while being of concern to the Board, are also matters of importance to the professional associations and the reputation of the legal profession, as well as to consumers of legal services.

Lawyers are reminded of their obligations when receiving and handling trust money and trust property. These are laid out under Chapter 4 of the [Legal Profession Uniform General Rules 2015](#), and Part 5 of the [Legal Profession Uniform Law](#).

Compliance with the trust account rules protects clients' money and helps protect your business against exploitation.

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