

Popular Threads on Solosez

IOLTA Credit Card

It's the start of my 2nd year in practice and I've had a good pick-up in clients as of late. I want to finally start accepting credit cards as part of my practice.

I called a place that I believe was endorsed by the MBA last year but I seem to have forgotten their name. Can someone who has a credit card handling system for their MA practice direct me to a company that handles credit cards for attorneys and their IOLTA accounts?

You do NOT want to link a credit card to your IOLTA account unless your bank can absolutely guarantee that the processing fees will be deducted from your operating account. What if you were to bounce a check because the IOLTA account was reduced due to the processing fees and you didn't know by how much?

Better that you deposit any credit card payments into your operating fund and then cut a check for the full amount to the IOLTA account.

Sasha Golden, Massachusetts

This is how I do it. The funds are deposited in my operating account and when I settle the batches, I make the deposits into IOLTA from my OA before the funds are deposited.

I just switched merchant accounts and I am using my operating account as the deposit account for them as well.

Robert M. Louque, Jr., Louisiana

There is actually a company that deposits directly into your IOLTA and operating account depending on what you dictate it to do. I asked them about it and cleared it with the bar association's IOLTA committee last year. I've just forgotten their name and now I cannot find them. What is want to do is NOT link a credit card to an IOLTA but instead give my clients an option to pay by credit card and have it deposited directly into my IOLTA.

Gabriel Cheong, Massachusetts

Unless they absolutely guarantee that the processing fee will NOT be charged to the IOLTA AND that they will pay for the cost of your defense if you should bounce a check due to a breach of that guarantee, I wouldn't touch it with a 10-foot pole. Period. End of Discussion.

It doesn't take more than a few moments to draft a check (paper or electronic) to make the transfer to the IOLTA. Why risk it?

Sasha Golden

I have to agree with Sasha on this one. What happens if one of your clients does a chargeback and the processor takes the \$2,500 retainer out of IOLTA - another clients retainer. The Bar would be all over you like white and rice. Forget the 1.89% processing fees, I would worry more about chargebacks.

Robert M. Louque, Jr.

It's Law Charge (www.lawcharge.com). Owned and operated by one of our own, I believe. I intend to sign up as soon as my client volume gets to the double digits. 😊

Cynthia Hannah-White, Hawaii

Aren't you improperly commingling funds you place client funds in your operating account?

Jennifer J. McCoy, Tennessee

Yes. That's why you use lawcharge. They arrange to deposit the funds (from credit cards) into your IOLTA account OR your operating account, whatever you tell them (I think), but to take all fees from the operating account.

That way you can have funds go into your IOLTA account, and then you manually transfer them to the operating account when they are earned.

Avoids putting unearned funds in the operating account as well as taking fees from the IOLTA account.

Cynthia Hannah-White

Yeah, I agree with Jennifer that if I set up a CC system where clients could pay with their CCs and the money is deposited into my Operating account and then I cut a check to the IOLTA, that would be commingling funds.

Robert, "The Bar would be all over you like white and rice." has got to be the most hilarious comments I've heard on this listserv, EVER! lol

Gabriel Cheong

I'm going to look into LawCharge but that was not the company I called last year. Does anyone recall the one that's endorsed by the MBA?

Gabriel Cheong

I got the ethics opinion from the Bar. They actually informed me they felt depositing the swipes into IOLTA placed the clients' money in too much jeopardy because of charge backs, credit card processing fees, etc.

That was over 3 years ago though.

Robert M. Louque, Jr.

Gabriel, the company you are looking for is Affiniscap. 866-376-0950. It sounds like Lawcharge does

exactly the same thing but I went with Affiniscape because it was approved by the MBA.

Feel free to call me if you have any questions about it.

Myong J. Joun, Massachusetts

Interesting. No such thing in California I don't believe. I just researched this like hell this past week (and almost mistakenly added CC processing to my trust account but then thought otherwise) and found this:

<http://www.calbar.ca.gov/calbar/pdfs/ethics/2007-172.pdf>

In California, if you receive fees already earned, or a true retainer (earned on receipt) you must deposit them into your own operating account. If the fees are for specific services to be performed, they can be deposited in your own account or the trust account. That's where most of my fees will be, so according to the bar, I can accept credit card payments into my operating account, and then move them into the trust account afterwards.

Reading that pdf above it appears you can't link CC processing to a trust account (subject to invasion etc.)

Joseph Dang, California

Looks like every state is different. Minnesota requires a deposit into the OA with an immediate transfer to IOLTA.

<http://www.mncourts.gov/lprb/trustfaq.html>

Robert Louque

Sorry for such a late response - I got wrapped up in '24' !

I thought you might be interested in a post I sent a while back regarding chargebacks (please see below). If you like I can send you the entire post or you may check the archives - the original post was Nov. 13, 08. The only other point I would make regarding the current discussion is to watch out for those junk fees -they can really add up.

The co-mingling issue, was one of the reasons I started Law Charge. Designed by an attorney for attorneys, Law Charge was the first and is still be best.

Part of the original post: "...As stated -most processors will do an automatic debit when a cardholder disputes a charge and you are left with trying to re-coup the funds.

Law Charge has a 'retrieval request program'. If a cardholder disputes a charge you will receive a notice informing you of the dispute and asks you for 'your side of the story'.

You would supply your fee agreement with language authorizing the charge (we can provide this to you upon approval of your account, as well as language to add to your billing statements) and any other information necessary to defend the charge. This is permitted disclosure. The dispute will then be arbitrated between the cardholder, the merchant (you) and the processor.

In the attorney- merchant sphere most chargebacks would be for services not rendered or charge not authorized. I say 'most' because in the 8 years we have been providing merchant accounts to attorneys there

has been only 1 dispute which was successfully resolved in the attorney's favor.

The arbitration is the key difference between Law Charge and other processors."

Feel free to give me a call if you would like to discuss further. Happy New Year.

Tracy L. Griffin, Florida

Before you do that, please check with the Hawaii Justice Foundation about whether that is allowable. I may be disremembering but I seem to recall a requirement that funds may be moved into and out of IOLTA accounts in Hawaii by check only.

Naomi C. Fujimoto, Hawaii

Every state is different on IOLTA - I think that Mass has its own rules in place.

Carolyn Elefant, District of Columbia

A few things to add to this thread. Gabriel, I would look at Law Charge, simply because the owner is on this list and, IMO, has a great stake in making sure that everything is done correctly as she says it will. I also like the fact that the company is owned by an attorney, so there is some comfort that she knows very well the issue we face and standards we need to abide by. Other credit card (and even other) companies may not understand this as well.

Chargebacks should be the greatest concern. Usually, you do not know that it happened until it is too late. The money comes out before the notice of the dispute may get to you. As I understand, most companies take the money back right away, then address the dispute and either return the money to the merchant or to the consumer. The reason being is that the credit card company can then earn interest, etc. while holding the money. It is all about the money to the CC company. If I am incorrect, please do tell. Law Charge says they do not do this, which in my opinion is a better practice to get more clients to use their service.

Regardless of the company you use, consider getting a second operating account for the credit card fees. If there is a chargeback you do not want all your operating funds to be removed without adequate notice and then bounce operating checks. Bouncing an IOLTA check in this situation can be devastating, but the same actions could cause an operating check to bounce which will also not be pleasant.

Also, during an informal discussion with a BBO representative at one of their IOLTA trainings it was acknowledged that the rules are not clear on this, but the lesser of two evils was to have the funds deposited into the OP account with an immediate deposit from the OP to IOLTA. I believe part of the basis for this is if there was a dispute and what would happen to the funds, since the general practice is that the charge back is deducted immediately.

My two cents,

Phil A. Taylor

Tracy Griffin, an attorney on this list, created and operates Law Charge, which lets attorneys accept credit

cards and PROPERLY assigns funds and fees to comply with ethics rules.

You can go to: www.LawCharge.com or you can contact Tracy directly at: tracylee@digital.net

Law Office of Laura McFarland-Taylor, Illinois

I'm not sure which entity you are referring to as MBA, but you may be thinking about Law Firm Merchant Accounts from Affiniscape <http://tinyurl.com/8yhjfc>

The company is headed up by Amy Porter who is about the nicest person you will ever meet. They've partnered with more than 40 bar associations and from folks I've talked to including some of my own members who are using them, the service is top notch and they are very competitive on rates.

Another company is TX Legal Payment Solutions www.txdirectmsg.com who also seem to be very competitive. The point of contact that I had there is Anna Wright.

HTH,

Nerino J. Petro, Jr., Wisconsin

Another option is Tracy Griffin's Law Charge. She is a family law attorney and solosez member. She can be reached at 321-953-6987, tracylee@digital.net. She is also very nice and I owe her lunch!

Eric A. Morgan, Florida

Our members in Oklahoma have been thrilled with the Law Firm Merchant Account Service from Affiniscape. <http://tinyurl.com/8yhjfc> They cater only to lawyers. If MBA mean Maryland Bar Association, then, yes, that is the service they endorse as well.

Their CEO, Amy Porter, is one of the nicest people you will ever meet. But they have a lot of nice people on their staff. I've visted with several of them. So far I have yet to hear one negative comment about their services. I was visiting with her on another issue and she said they have had about 40 Oklahoma law firms sign up with them since we last talked in November.

Jim Calloway, Oklahoma