

**Client Deposit into Trust Account?**

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I have a potential client who needs something done TODAY. He's willing to sign my retainer agreement and go to a branch of my bank and make a cash deposit into my Trust Account.

Is there any reason I shouldn't allow him to do this? The account number is on every Trust Account check I write, so the account number isn't confidential. Are there any other issues?

I'd appreciate advice ASAP.

California Guy

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Do you not accept credit cards? Or could you meet up somewhere to accept cash in person?

I've had a couple people want to do this, and I declined. I just don't like the idea. Those people ended up being able to pay me in a regular manner.

But I have to admit, I can't point to a specific ethical problem with the idea.

A practical concern: will you be able to independently confirm through your bank \*today\* that the deposit was made in the correct amount? Sometimes my online banking doesn't update until the next day.

Andrew

Andrew Flusche, Virginia

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Not sure if there is any ethical impediment here, but if you feel uncomfortable about your PC making direct deposits into your trust account, then err on the side of caution. However, my question is this: if this is a retainer payment, does your local jurisdiction even require that such payments first be deposited into your trust account, or can you go ahead and deposit unearned retainer payments into your business account?

Best regards,  
Joseph D. Kamenshchik, New York

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## SoloSez Popular Threads, October 2012

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This potential client came in carrying his own red flag.

Anyone who comes in on the last possible day is suspect in my book. I've put work aside to get a delay-caused 'emergency' and found after filing that the client wasn't entirely truthful with me. I should have either insisted on time for due diligence or refused to take the matter. What I would do now that I know better is this:

Advise client to file for an extension of time immediately.  
When it's granted, he will call you for an appointment.  
He brings the retainer at that time.  
You thoroughly question him about the issue.  
You review all the documents associated with the matter.  
And, finally, you make the own deposit and wait for it to clear.

Nothing ventured, nothing gained v. Marry in haste, repent in leisure.

CJ Stevens, Montana

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The deposit would be into my Trust Account. I would not be able to deposit the unearned funds into my operations account.

California Guy

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Andrew and CJ raise some good issues but I take it your question is whether you should give him your trust account number.

Bank account numbers are given out all the time. In fact, many patent practitioners who do international work routinely provide this kind of information on their invoices and such. In other words, this information is a normal part of "payment instructions" and isn't going to enable the potential client to withdraw funds from the account.

Let us know if your question is something else.

Bert Krages, Oregon

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## SoloSez Popular Threads, October 2012

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I see no problem with giving bank name and account number to client.

I give my account number for other law firms to wire funds or out of town clients to deposit in my bank if an immediate court filing is required. I can tell online immediately if cash or check was deposited.

Glenn A Brown, Pennsylvania

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Depending on amount of cash, it may trigger a currency transaction report, but I don't see a lot of other issues.

Darrell G. Stewart, Texas

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If the matter suggests that the client may go banko in the next 90 days, then remember you could get a claw-back as a preference payment. Otherwise, I don't see a problem except as others have already noted.

Rebecca K. Wiess, Washington

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I have had several clients do this for me. I have no problem with it. They deposit; send me a picture of the deposit receipt and away we go.

Take care with this one - it can be a client induced problem, or it could simply be one of those things that happens in the real world.

Andrew Winghart, California

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IMHO, you alone should control the IOLTA account -- including any deposits.

Susan K. Ashabraner, California

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I take cash n make my deposit... iolta is a touchy subject in my bar so only I control it...g alba miami...

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