

2018-002

The State of New Hampshire
ADMINISTRATIVE OFFICE OF THE COURTS

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Carolyn Koegler, Esq.
New Hampshire Supreme Court
Advisory Committee on Rules
1 Charles Doe Drive
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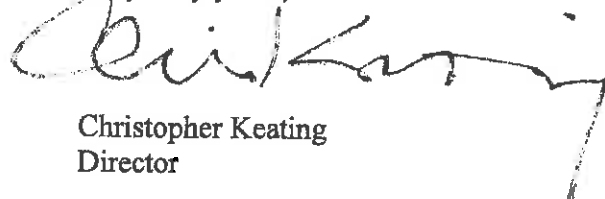
Dear Attorney Koegler,

The N.H. Bar Foundation Board of Directors worked with the really wicked smart people in the Attorney Discipline Office to try to help provide guidance and authority for lawyers in circumstances when they encounter unclaimed or unidentified funds in Client Trust Accounts. The result is a proposed amendment to Rule of Professional Conduct 1.15, (Safekeeping Property). It is regrettably longer and more arduous than I might have hoped it would turn out, but what it lacks in brevity it tries to make it up in clarity.

Or not! We at least gave it our best shot.

In either case, I would be grateful if you would accept this for submission to the Advisory Committee on Rules for its consideration.

Very truly yours,



Christopher Keating
Director

CC: Janet DeVito
Lisha Brosseau

Proposed language regarding revisions to Rule of Professional Conduct 1.15 (Safekeeping Property).

Submitted by the NH Bar Foundation in cooperation with the Supreme Court Attorney Discipline Office.

Amend RPC 1.15 by adding the following:

(g) When an inactive or retired lawyer or the lawyer's law firm cannot, despite reasonable efforts, identify the owner of funds held in a client trust account, after one year of initiating a search for the funds' owner, the funds shall be paid to the New Hampshire Bar Foundation.

(h) When the estate of a deceased lawyer or any other person or entity authorized by the Court cannot, despite reasonable efforts, identify the owner of funds held in a client trust account, after six months of initiating a search for the funds' owner or such other time as authorized by the Court, the funds shall be paid to the New Hampshire Bar Foundation.

(i) When a lawyer is suspended or disbarred from the practice of law as the result of discipline, and the lawyer, the lawyer's firm, or any other person or entity authorized by the Court cannot, despite reasonable efforts, identify the owner of funds held in the disciplined lawyer's client trust account, after one year of initiating a search for the funds' owner, the funds shall be paid to the New Hampshire Bar Association Public Protection Fund.

(j) When the owner of funds in a lawyer's or law firm's client trust account can be identified, but cannot, despite reasonable efforts, be located for the purpose of returning such funds, after five years of attempting to locate the owner, the funds shall be presumed unclaimed and/or abandoned and shall be turned over to the administrator of abandoned property pursuant to N.H. RSA 471-C.

(k) Prior to the transfer of any unidentified or unclaimed funds from a client trust account to the New Hampshire Bar Foundation, the New Hampshire Public Protection Fund or Administrator by the persons or entities referenced in Rule 1.15(g)-(j), such persons and/or entities shall notify the New Hampshire Supreme Court Attorney Discipline Office no less than ten (10) days before the intended transfer.