



**ILLINOIS STATE  
BAR ASSOCIATION**

# **ISBA Advisory Opinion on Professional Conduct**

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**This Opinion was AFFIRMED by the Board of Governors in July 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.4(b) and 1.15(a). See also ISBA Ethics Advisory Opinion 88-4. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.**

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**Opinion Number 845  
November 8, 1983**

**Topic: Client Funds**

**Digest:** A law firm must continue to hold client funds in a trust account even when the client cannot be located.

**Ref:** Rule 9-102; ISBA Opinion 703; and  
Ill. Rev. Stats. ch. 141, § 101, et seq. (1981)

## INQUIRY

A law firm obtained a judgement on behalf of a foreign corporation. The defendant tendered several payments which the law firm forwarded to the client. At some point thereafter, the foreign corporation was dissolved. Additional payments then were received. The law firm has been unable to locate any representative of the foreign corporation and is holding a sum of money belonging to it. The law firm inquires as to its obligations regarding the money.

## OPINION

Rule 9-102 (a) provides that all funds of a client paid to a law firm shall be deposited in a separate identifiable trust bank account maintained in the state in which the law office is situated. Rule 9-102 (c) further requires the law firm to promptly notify its client of the receipt of the funds, to maintain complete records of all funds coming into its possession and to render appropriate accounts to its client regarding those funds. See ISBA Opinion 703.

The law firm should deposit the judgement payments in its trust account and then make reasonable efforts to notify the officers and/or directors of the dissolved foreign corporation of the receipt of the funds. Depending on the amount of funds involved, reasonable efforts would likely include such things as: sending a certified letter, return receipt requested, to a known individual associated with the corporation at the last available address, with instructions for the Post Office to forward and with a request that the return receipt show the address where delivered; asking the Post Office to provide a forwarding address; contacting the Secretary of State of the state of incorporation for names and addresses of officers and/or directors; hiring a skip tracing service; and/or hiring a private detective.

If an officer and/or director of the dissolved corporation cannot be located after making every reasonable effort consonant with the amount of funds involved, the law firm should continue to preserve the funds of its client by maintaining the funds in its trust account. The law firm should then comply with the provisions of the Uniform Disposition of Unclaimed Property Act, Ill. Rev. States. ch. 141 § 101 et. seq. (1981), which presumes abandonment of property held in a fiduciary capacity after seven years. Id. §§ 107, 109. There is a specific provision relating to the property of non-residents. Id. § 110.

If the law firm makes reasonable efforts to comply with Rule 9-102 and the Uniform Disposition of Unclaimed Property Act, it will have fulfilled its duties to its client under the Code of Professional Responsibility.

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