

(0009J)

ETHICS ADVISORY PANEL
Opinion #92-84, Request #312
Issue November 18, 1992

An attorney seeks Panel advice regarding Rule 1.15 entitled "Safekeeping Property." A Rhode Island attorney conducts loan closings for an out of state lender. The lender requires that the attorney maintain a checking account with the lender. The attorney maintains an IOLTA client account in Rhode Island. When the closings are conducted, the lender deposits the mortgage proceeds in the out of state checking account. The attorney informs the Panel that the attorney insisted that this account be designated as an IOLTA account, however, the lender refused to comply with this request. As a result, the attorney withdraws the deposited funds on the day of the closing and deposits them into the attorney's Rhode Island IOLTA account. The attorney asks whether this conduct complies with Rule 1.15 of the Rules of Professional Conduct.

The Panel agrees that Rule 1.15 entitled "Safekeeping Property" governs this inquiry. Specifically, Rule 1.5(d) provides in pertinent part that a lawyer shall deposit client's funds in an interest bearing trust account. Rule 1.15(d)(1)(5) lists the specific requirements with regard to an IOLTA account. Based upon the facts presented, the Panel believes the proper course of action is to withdraw the funds from the non-conforming account and to deposit them into the Rhode Island IOLTA account as soon as practicable.