

ETHICS ADVISORY PANEL
OPINION #93-93 REQUEST #437
Issued December 8, 1993

The inquiring attorney maintains an interest bearing trust account that is used for real estate disbursements. The interest earned is forwarded to the Rhode Island Bar Foundation ("the Foundation"). However, the inquiring attorney's account is charged a fee by the bank each time funds are wired into the account. The inquiring attorney wishes to maintain the account, but would like to avoid the wire transfer fee. The inquiring attorney asks whether he/she may retain the account under his/her employee identification number and, after deducting the wire transfer charges, send the interest to the Foundation.

Rule 1.15(d) provides as follows:

(5) The rate of interest payable on any interest bearing trust account shall not be less than the rate paid by the depository institution on similar deposits. Lawyers or law firms making such deposits shall direct the depository institution:

(i) To remit interest or dividends on such deposits, net of any service or fees, at least quarterly, to the Rhode Island Bar Foundation (the "Foundation").

(ii) To transmit to the Foundation and the depositor with each remittance statements showing the name of the depositor, the amount remitted, and the rate(s) at which the interest was computed.

Under the Rule, the amount of interest, net of any service or fees, are to be remitted to the Foundation. Thus, the Panel believes that the inquiring attorney's law firm should explain the mechanics of the Rule to the bank so that the total amount of fees are deducted from the interest with the remaining amount of interest forwarded to the Foundation.