

Final

**Rhode Island Supreme Court  
Ethics Advisory Panel Opinion No. 2004-07 Request No. 891  
Issued November 18, 2004**

FACTS

The inquiring attorney recently withdrew as attorney of record in a civil matter where the client and the inquiring attorney could not agree on how to proceed with the case. The attorney is currently holding substantial funds of the client in an interest-bearing account with the client's name on it. The money was awarded to the client following an arbitration, the appeals period for which has long passed. The inquiring attorney states that commencing an interpleader action and depositing the funds in the court registry do not appear appropriate under these facts, as there is no dispute about the ownership of the funds.

The inquiring attorney mailed a check to the client, but the client returned the check to the attorney. The inquiring attorney states that the client refused and continues to refuse to accept the check under an erroneous belief that by accepting it, the client will forfeit rights in a collateral matter.

ISSUE PRESENTED

The inquiring attorney asks what to do with client's funds which the attorney is holding in an interest-bearing account in the client's name when the client refuses to accept the funds.

OPINION

The inquiring attorney is doing all that is required under the Rules of Professional Conduct, *i.e.*, holding the client's funds for safekeeping. If the client continues to refuse to accept the funds, the inquiring attorney must maintain the trust account pursuant to Rule 1.15.

REASONING

- Rule 1.15 entitled "Safekeeping property" states in pertinent part:
- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated or elsewhere with

the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven (7) years after termination of the representation as provided under Rule 1.16.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third persons, shall promptly render a full accounting regarding such property.

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It appears from the facts presented that the inquiring attorney is doing that which is required under Rule 1.15. The attorney is holding the funds in a separate interest-bearing account for the benefit of his/her former client. The Panel believes that if the client refuses to accept the money Rule 1.15 requires the inquiring attorney to maintain the trust account with the client's funds.