



**SMOKEBALL**

LA CLE WEBINAR

# How to Trust Yourself with Trust Accounting



**Jordan Turk**

Attorney | Director of Education & Attorney Development,  
Smokeball

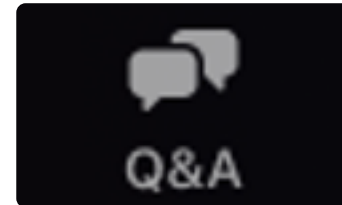
# Housekeeping



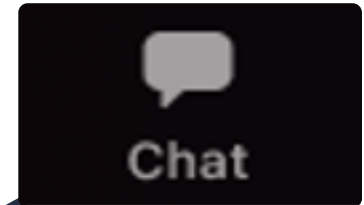
## Ask Questions

Ask us questions using the **Q&A** (1)  
Engage with attendees with **Chat** (2)

(1)

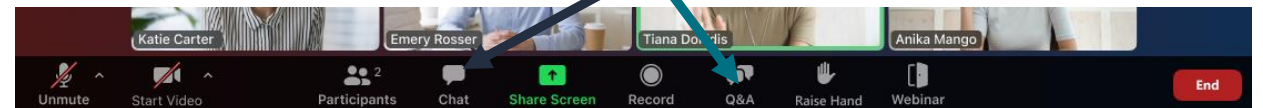


(2)



## Slides

Slides will be available after the presentation.



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Smokeball Bill is **FREE** for all Louisiana State Bar Association Members.



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## Billing Dashboard

### Today's Billable

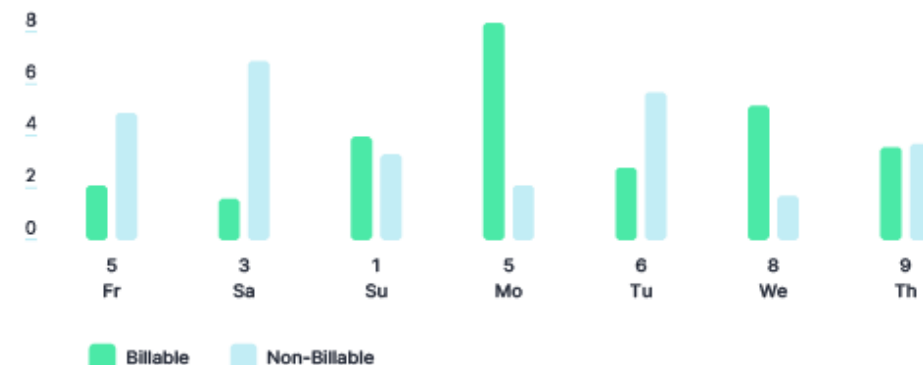
🕒 4.4 Hrs 💰 2,600

### Last 7 Days Billable

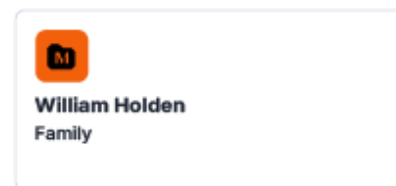
🕒 22.4 Hrs 💰 11,200

### Billable/Non-Billable

Last 7 Days Till Today



### Recent Matters





**Smokeball Bill helps law firms manage trust accounting compliantly, bill easily, & get paid faster.**



### **Trust Accounting**

3-way reconciliation to help you stay compliant.



### **Billing**

Time-based, flat fee, contingency, and more.



### **Time & Expense**

Track all matter-based time entries, fees and expenses.



### **Invoice Templates**

Professional, customizable invoice templates.



### **Accounts Receivable**

Know what's owed, overdue and paid.



### **Payments**

Offer clients online payment options to get paid faster.



# Jordan L. Turk

**Director of Education & Attorney  
Development, Smokeball**

- JD, University of Arkansas School of Law
- BA, The University of Texas at Austin
- Practicing Family Law Attorney in Texas
- Host, Hacking Law Firm Success



# The **#1** AI-Powered Practice Management Platform

## **AI-Powered Productivity**

Streamlined intake and matter management.

## **20,000+ Legal Forms**

Automate creation and completion.

## **Increase Profits**

Efficient billing, time tracking & reporting.

## **Smarter Case Management**

One simple integrated platform.

## **Easy Time Tracking & Billing**

With AutoTime.

## **Actionable Insights**

Smarter, more profitable decisions.



# AGENDA

1. Trust Accounts 101
2. Ethical Considerations
  1. Rule 1.15
  2. Credit cards and comingling of funds
  3. Protecting Funds
3. Disputes
4. Trust Account Reconciliation
5. Story Time
6. Live Demo of Smokeball Bill!
7. Q&A



Part 1

# **Trust Accounts 101**

# IOLTA

## "INTEREST ON LAWYERS TRUST ACCOUNT"

- An account used to store client or third-party funds, the interest of which gets sent to your state bar
- Remember, you are a fiduciary of your clients' funds
- IOLTAs are NOT operating accounts
- Be careful about to whom you give access to your IOLTA



# IOLTA

Where does that money go, anyway?

Interest goes to the Louisiana Bar Foundation (LBA), for distribution to Louisiana's largest civil legal services programs, pro bono programs, battered women shelters, and numerous other community organizations that provide civil legal assistance to Louisiana's low-income citizens.



Part 2

# **Ethical Considerations**

# LA Rule 1.15: Safekeeping Property



“(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. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust account maintained in a bank, credit union, or saving association...”

## Comment [1]:

“A lawyer should hold property of others with the care required of a professional **fiduciary**.”

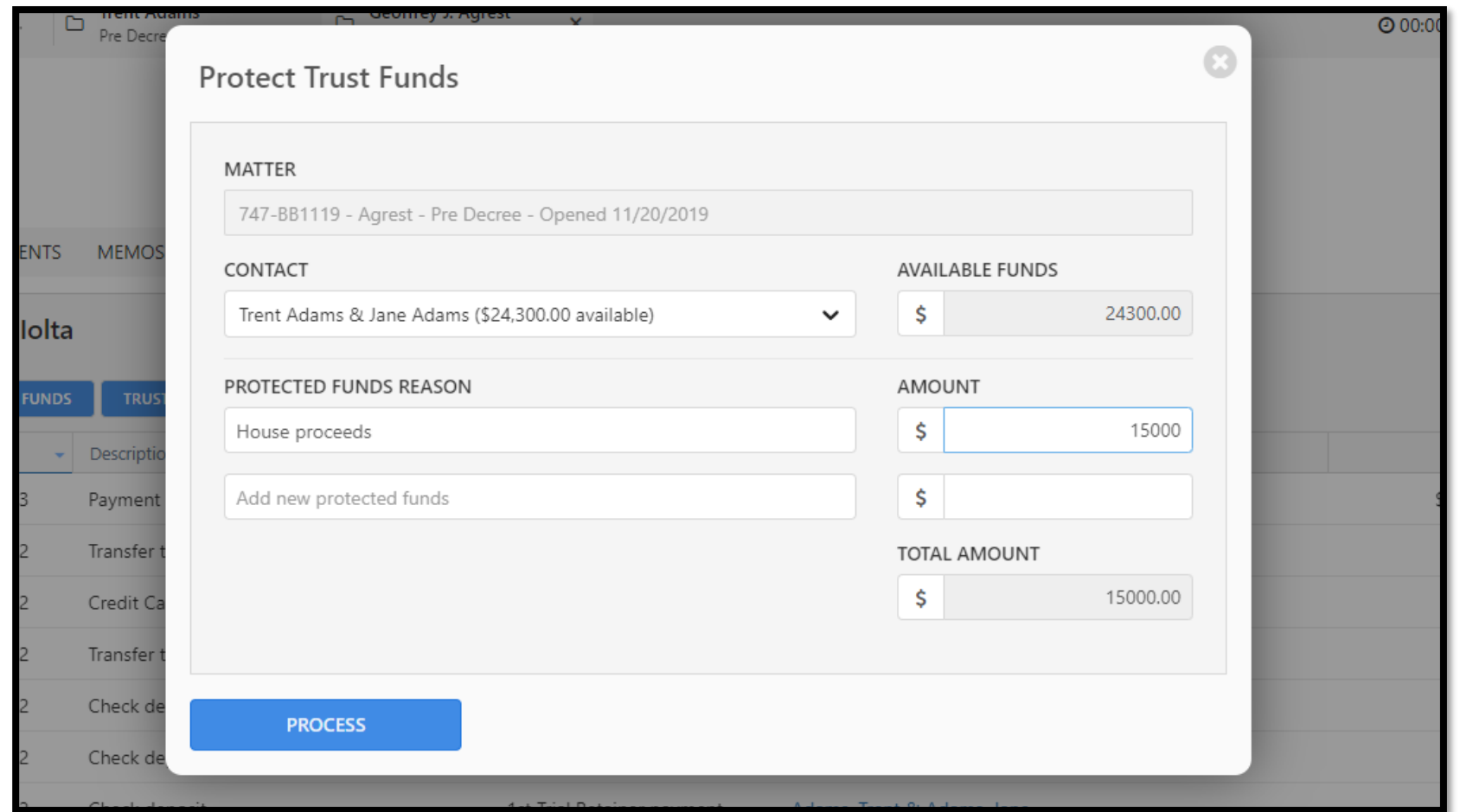
# Credit Card Issues

PROPER SEPARATION OF EARNED AND UNEARNED FEES IS KEY



# Use Technology to Your Advantage!

## Protect Funds



The screenshot shows a 'Protect Trust Funds' dialog box overlaid on a legal software interface. The dialog box contains the following fields and sections:

- MATTER**: A text field containing '747-BB1119 - Agrest - Pre Decree - Opened 11/20/2019'.
- CONTACT**: A dropdown menu showing 'Trent Adams & Jane Adams (\$24,300.00 available)'.
- AVAILABLE FUNDS**: A field showing '\$ 24300.00'.
- PROTECTED FUNDS REASON**: A text field containing 'House proceeds'.
- AMOUNT**: A field showing '\$ 15000'.
- TOTAL AMOUNT**: A field showing '\$ 15000.00'.
- PROCESS**: A blue button at the bottom.

The background interface shows a list of transactions with columns for 'Description', 'Payment', 'Transfer to', 'Credit Ca', and 'Transfer to'. The top of the background interface shows a search bar with 'Trent Adams' and 'Pre Decree'.



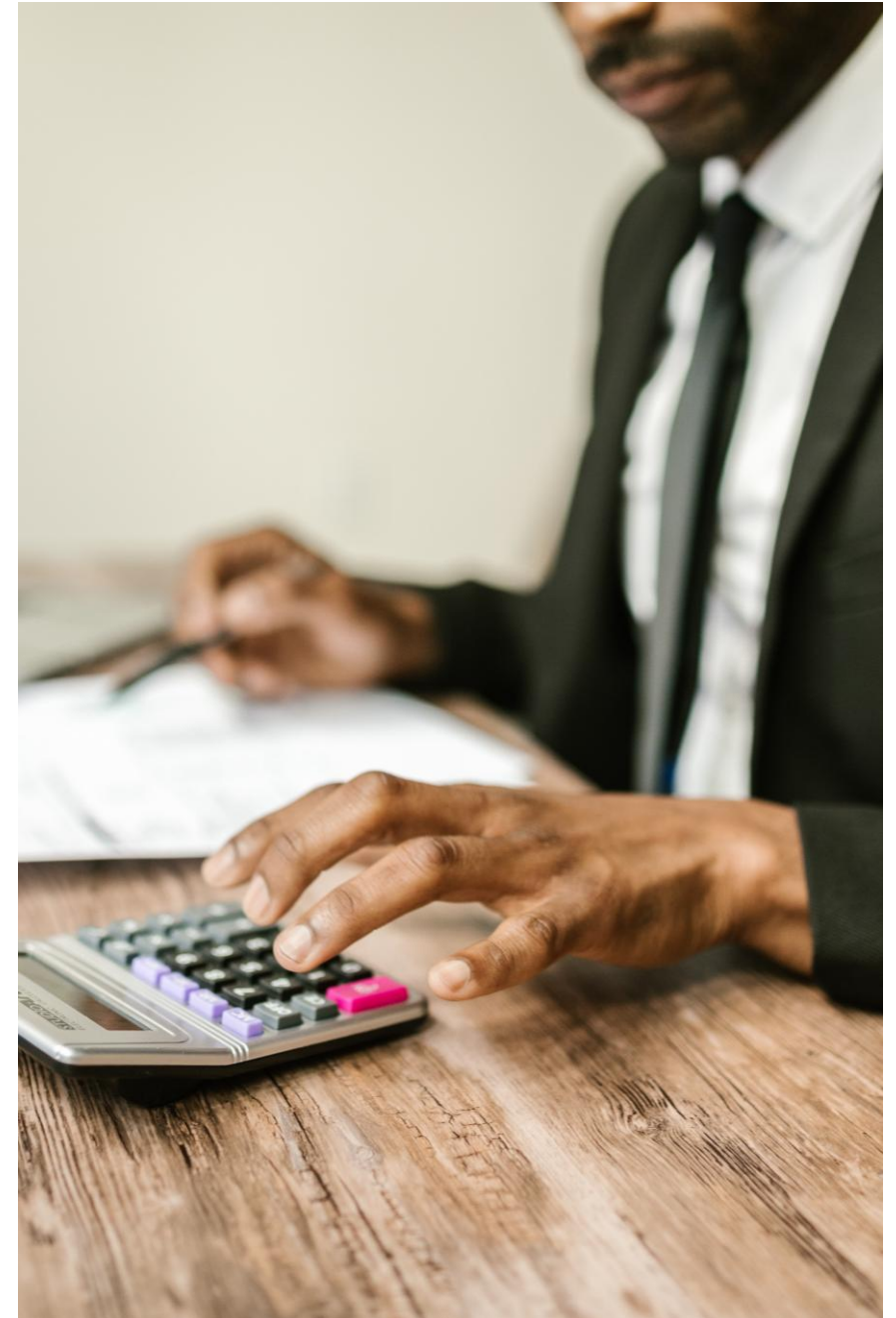
Part 3

# Disputes

# Payment Dispute: Wire Transfers

## Not good for the sender

- Wire transfers are normally final!
  - Be careful if the firm is wiring the money to a client or third party – you will never see those funds again.
- Once the recipient's bank receives the funds, say goodbye to that money.
- **Might** be reversible if recipient received more money than they were supposed to.





# Payment Dispute: Credit Cards

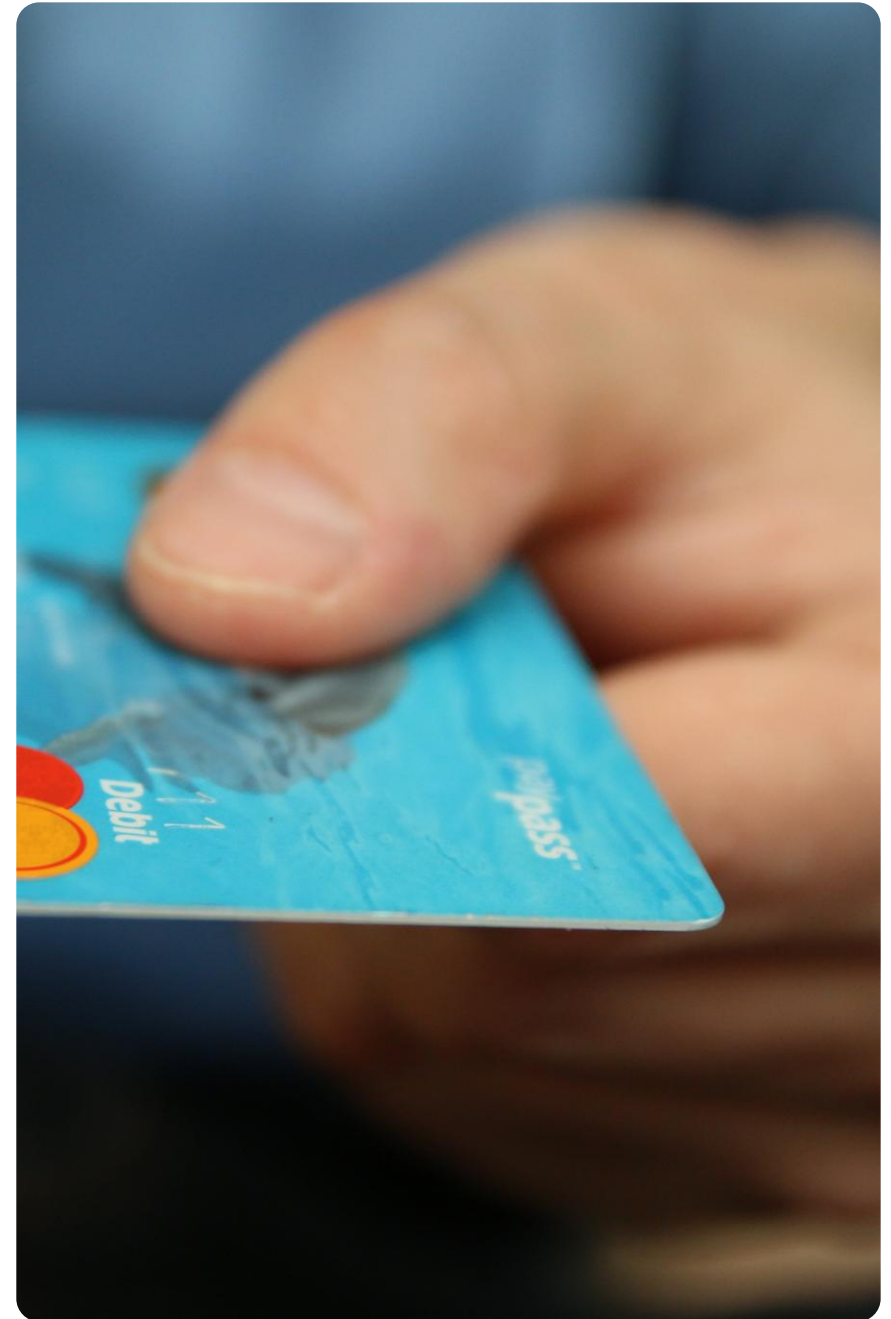
## Also known as chargebacks

- What is a chargeback?
- Typically, clients have six months from the conclusion of services being rendered to contest a charge. In some cases (AMEX), the client has 2 years to contest it.
- Once those funds are in dispute, the bank **freezes** that amount, so neither the firm nor client can access them.
- The client's card-issuing bank will notify you electronically of a chargeback.
- You will then usually get 7-10 days to respond.
- **Keep good records!**

# Payment Dispute: ACH

## Riskier than credit cards

- If a client disputes a transaction within 60 days of when it was processed, the funds automatically revert to the client while the dispute is investigated. **After 60 days** funds stay with the firm while the dispute is investigated.
- **Big difference from credit cards:** if the transaction is disputed within 60 days, the funds are **sent to the client** to hold.
- After 60 days, the firm then has an opportunity to dispute/defend the charge from their end and prove that it was authorized.
- **Issue:** Let's say a client disputed a transaction within 60 days and you win the dispute. What if there are no more funds in the client's account?



**NEW**

## Buy Now, Pay Later Platforms

- This includes companies like Klarna, Affirm, etc.
- Now being treated as credit card providers under TILA (Truth in Lending Act), meaning returns and disputes will now have federal oversight (started around late July/August of 2024)

The Klarna logo is displayed in a bold, black, sans-serif font. It is centered within a light pink rounded rectangle, which is itself centered within a larger light blue circle.

**Klarna**

The Affirm logo features the word "affirm" in a bold, black, sans-serif font. A blue arc is positioned over the "i" and "r", starting above the "i" and ending above the "r". The logo is centered within a light blue circle.

**affirm**



Part 4

# **Trust Account Reconciliation**

# Trust Account Reconciliation

- You should be doing this MONTHLY!
  1. I would record every client trust bank account transaction twice (in your client ledger and account journal), and then:
  2. Check these records against your bank statements
- You can't do a reconciliation for one month until you're sure you have correct balances for the prior month, so stay on top of it!
- The goal is to catch mistakes and prevent things from snowballing

# Steps

1. Reconcile the account journal with the client ledgers to make sure they agree with one another.
2. Enter bank charges and interest shown on the bank statement into your account journal and client ledgers as appropriate.
3. Reconcile the account journal and client ledgers with the bank statement to make sure that your records agree with the bank's.
4. Enter Corrected Month Ending Balances and Corrected Current Running Balances into your account journal and client ledgers.

## What if Things Don't Match Up?

- Account for the uncleared checks or deposits that missed the bank statement's cutoff date
- Once you do this, the balances should all match up



**What Happens  
If I Don't Follow  
the Rules?**



**You might (and probably will)  
find yourself in disciplinary  
action land.**



Part 5

# Story Time

CALIFORNIA

## California bar suspends 1,600 attorneys for violating rules set up after Tom Girardi allegedly stole millions



Former Los Angeles attorney Thomas Girardi in court in 2014. (Irfan Khan / Los Angeles Times)

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CALIFORNIA

Hilary obliterated daily rainfall records. How much fell in your area?

CALIFORNIA

Hilary leaves massive flooding, mudslides, upheaval across Southern California

COMPANY TOWN

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Lizzo's brand was built on empowerment and acceptance. Her accusers tell another story

FOOD

Gladstone's restaurant to close after 50 years; Wolfgang Puck and Frank Gehry plan a makeover

ENTERTAINMENT &amp; ARTS

Commentary: Complaining that Tropical Storm Hilary was overhyped? Welcome to the club, L.A.

USC SPORTS

USC hires Washington's Jennifer Cohen to be its

# The Busted Bookkeeper

IN RE PRB FILE NO. 2016-042 (VERMONT)

## Facts of the case:

- An attorney hired an independent bookkeeper to oversee the IOLTA using Quicken
- After 5 years, the bookkeeper quit the firm and the attorney discovered the IOLTA had not been reconciled in 6 months
- The attorney hired a CPA to audit the IOLTA for the 5-year period it was overseen by the bookkeeper and transform the firm's IOLTA management practices

## What was discovered?

- \$75,000 in stale checks related to real estate transactions, payable to the firm for insurance commissions
- \$32,000 balance in attorney fees (unearned)

# The Busted Bookkeeper

IN RE PRB FILE NO. 2016-042 (VERMONT)

## **The attorney:**

- Commingled business/client funds
- Failed to safeguard funds – did not maintain accurate records or reconcile in a timely fashion
- Claimed he was unaware of requirements to maintain a record of each client's IOLTA funds, including deposits, disbursements, and balances

## **They were found negligent for:**

- Failing to track transactions by client or matter in Quicken
- Failing to timely reconcile the IOLTA
- Failing to correct errors leading to a running balance

# The Busted Bookkeeper

IN RE PRB FILE NO. 2016-042 (VERMONT)

## Discipline?

## Private admonition

*\*Remember, although the attorney assigned tasks to the bookkeeper and employee, the attorney is ultimately responsible for ensuring the IOLTA is administered according to the rules*

# How Do I Avoid this Outcome?

- **Do not commingle!** Make sure business funds and client funds are separated
- Reconcile regularly (at least monthly) and make sure you understand the tools you are using to reconcile
- Ensure that your IOLTA reporting can track client funds, transaction details, and purpose of all IOLTA transactions
- Track outstanding checks that have not cleared
- Deposit incoming checks in a timely manner and move earned fees out of IOLTA once the fees are earned

# I'm a Lawyer, Not an Accountant

IN RE LUIS SALGADO (DC BAR)

## Facts of the case

- A small, low-income firm had six bank accounts but could not afford “a sophisticated accounting system,” so no accounting system was used to track funds
- The attorney left enough earned funds in IOLTA to ensure client funds would never be misused, compensating for a previous mistake when staff were paid directly from earned funds in IOLTA, including attorney fee-splitting
- The attorney also deposited an insurance check in IOLTA for reimbursement related to property damage

# I'm a Lawyer, Not an Accountant

IN RE LUIS SALGADO (DC BAR)

## Findings

- The attorney did not withdraw earned fees in a timely manner
- The attorney did not meet the obligation to maintain complete records of handling, maintenance, and disposition of all account funds
- The attorney failed to exercise supervision of non-attorney staff access to his signature stamp for IOLTA
- The attorney failed to acknowledge wrongfulness of misconduct or to appreciate fiduciary responsibilities for funds
- The investigation failed to conclude that funds had remained intact and were not expended on operating expenses or commingled with other funds

# I'm a Lawyer, Not an Accountant

IN RE LUIS SALGADO (DC BAR)

## Discipline?

30-day suspension! Also had to prove fitness for reinstatement with sufficient accounting mechanisms to comply with the rules and fiduciary requirements of trust accounting

# How Do I Avoid this Outcome?

- Just like law school, ignorance of the rules is not an excuse
- Do not leave excess funds in IOLTA
- Withdraw earned fees from IOLTA in a timely manner
- Use technology for IOLTA accounting and organization
- Use a tool that enables virtual sub accounts, maintains client records, provides reporting, and tracks all money movement
- Maintain records of all account activity
- Restrict access and permissions for support staff

# Maybe Don't Hire the Walking Red Flag

## FL DISCIPLINARY BOARD V. GILBERT (FL BAR)

### Facts of the case

- An attorney knowingly hired an employee who was previously convicted of 11 counts of wire fraud and sentenced to 41 months imprisonment, with 5 years probation and restitution of \$7.9 million
- This employee was hired despite a federal probation officers warning that it was inappropriate to hire a man previously convicted of fraud and embezzlement
- Five months into his employment, the employee steals and forges the owner's signature on an account check to pay for his girlfriend's \$20,950 cosmetic surgery
- The employee is terminated but is brought back a few years later and given full reign over real estate closings
- The employee takes IOLTA funds intended to pay off client mortgages and transfers them to a shell company, keeping the mortgages alive by making monthly payments, and paying staff from IOLTA
- **THE EMPLOYEE ULTIMATELY STOLE \$4,750,708.70.**

# Maybe Don't Hire the Walking Red Flag

FL DISCIPLINARY BOARD V. GILBERT (FL BAR)

## Findings:

- The attorney failed to supervise staff due to lack of meaningful post-closing supervision and follow-up of employee actions

# Maybe Don't Hire the Walking Red Flag

FL DISCIPLINARY BOARD V. GILBERT (FL BAR)

**Discipline?**

Disbarred!

# How Do I Avoid this Outcome?

- If you need assistance managing your IOLTA, hire someone you can trust (your license is on the line!)
- Actively monitor the IOLTA and activity – you should understand the purpose of every transaction
- If you see a red flag, act immediately
- Restrict access and permissions for support staff – never take staff at their word

# So You Mean I Can't Commingle Funds?

IN RE CLARISSA THOMAS EDWARDS (DC BAR)

## Facts of the case

- An attorney was disciplined for commingling funds and failing to keep complete records of the same
- The attorney was publicly censured and ordered to take 5 hours CLE and meet with manager of Practice Management Advisory Service of the DC Bar
- One year later, the attorney commingled funds again, even while knowing that she was being investigated for several years
- The attorney failed to provide records of check registers, subsidiary client ledgers, and monthly reconciliations.

# So You Mean I Can't Commingle Funds?

IN RE CLARISSA THOMAS EDWARDS (DC BAR)

## Findings

- "Respondent's lack of record keeping was so egregious that it 'stymied Disciplinary Counsel's efforts to reconcile or reconstruct the funds' in Respondent's accounts"
- **No clear and convincing evidence of intentional dishonesty, but reckless**
- "Respondent has not, for example, shown that she has developed any mechanisms to avoid making the same very serious mistakes that result from her habit of rushing." **Thus, clear and convincing evidence that there is serious doubt as to her fitness to practice**

# So You Mean I Can't Commingle Funds?

IN RE CLARISSA THOMAS EDWARDS (DC BAR)

## Discipline?

Two-year suspension! Also, a requirement to demonstrate fitness before reinstatement.

# How Do I Avoid this Outcome?

- Don't be "reckless" – keep detailed records of IOLTA activity
- Leverage tools to help you maintain a check register, track money movement by client, and understand the purpose of each IOLTA transaction
- Have a process for regular reconciliation (at least monthly)
- Employ controls and safeguards to prevent commingling funds

Part 6

# Live Demonstration of Smokeball Bill!



# The **#1** AI-Powered Practice Management Platform

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Streamlined intake and matter management.

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Automate creation and completion.

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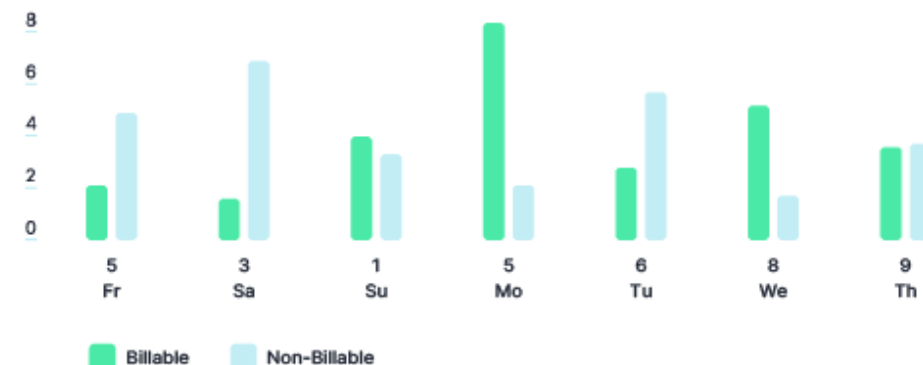
🕒 4.4 Hrs 💰 2,600

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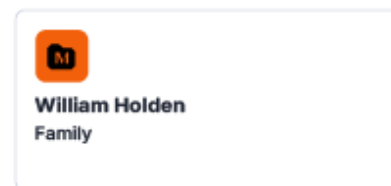
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**Questions?**

# Thanks for joining!



**Jordan Turk**

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