



Professional Ethics Committee

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Approved September 17, 2014

INFORMAL OPINION 14-07


CLIENTS' FUNDS HELD FOR CLIENTS WHOSE NAMES
AND ADDRESSES ARE UNKNOWN

We have been asked to assume that after the departure of a real estate partner a firm discovered it has an unaccounted for balance in its real estate clients' funds account, no idea to whom the funds belong, and no way of finding out. By way of background, we have also been asked to assume (a) that the real estate partner took with him the real estate files and related clients' funds; (b) the unaccounted for balance developed over as many as twenty or more years, predating the use of computers in tracking clients' funds; and (c) the ledger cards for the account were destroyed seven years after the end of the representation. We have been asked, what is the firm to do?

It is our opinion that notwithstanding that the firm has lost track of the names and addresses of the clients to whom the clients' funds belong, the firm continues to owe a fiduciary duty with regard to those clients' funds. See Commentary to Rule 1.15. Beyond imposing a fiduciary duty with respect to the handling of clients' funds, the Rules of Professional Conduct do not specify what to do when the names and addresses of the clients are lost. Assuming, as we have been asked to do, that there is no way to identify those clients, it would seem that the only fiduciary duty the firm can still carry out is to keep the funds safe until the escheat laws come into play. See Conn. Gen. Stat. § 3-61(a), et seq. See also Informal Opinion 89-24 (Trust Monies

Belonging to Missing Clients); Informal Opinion 93-25 (Funds Held for Missing Clients); and Informal Opinion 98-18 (Attorney's Trust Funds Held for Clients Who Cannot Be Located).

THE COMMITTEE ON PROFESSIONAL ETHICS

BY 

Marcy Tench Stovall, Chair