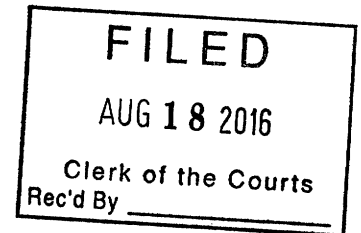


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: PETITION TO AMEND TENNESSEE SUPREME COURT RULE 8,
RPC 1.15 AND RULE 43

No. ADM2016-01404



ORDER

On July 13, 2016, the Board of Professional Responsibility of the Supreme Court of Tennessee, joined by the Tennessee Bar Foundation, filed a petition asking the Court to amend Rule 8, RPC 1.15 and Rule 43 of the Rules of the Tennessee Supreme Court to allow attorneys to deposit trust funds in federally insured credit unions. The Court has determined to solicit public comments on these proposed amendments.

Accordingly, the Court solicits written comments regarding these proposed amendments from judges, lawyers, bar associations, members of the public, and any other interested parties. A copy of the petition and proposed amendments filed by the Board and the Tennessee Bar Foundation is attached as the Appendix to this Order. The deadline for submitting written comments is Monday, September 19, 2016. Written comments should be addressed to:

James M. Hivner, Clerk
Re: Tenn. Sup. Ct. R. 8, RPC 1.15 and R. 43
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this Order, including the Appendix, to LexisNexis and to Thompson Reuters. In addition, this Order, including the Appendix, shall be posted on the Tennessee Supreme Court's website.

IT IS SO ORDERED.

PER CURIAM

APPENDIX

***PETITION TO AMEND TENNESSEE SUPREME COURT RULE 8, RPC 1.15 AND
RULE 43 FILED BY THE BOARD OF PROFESSIONAL RESPONSIBILITY AND
THE TENNESSEE BAR FOUNDATION***

(filed July 13, 2016)

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
JUL 13 2016
Clerk of the Courts
Rec'd By _____

**IN RE: PETITION TO AMEND TENNESSEE SUPREME COURT RULE 8,
RPC 1.15 and RULE 43**

No. ADM 2016-01404

PETITION TO AMEND TENNESSEE SUPREME COURT RULES 8 AND 43

Comes now the Board of Professional Responsibility of the Supreme Court of Tennessee (Board), and the Tennessee Bar Foundation and respectfully petitions this Honorable Court to amend Tennessee Supreme Court Rule 8, RPC 1.15(b) and Rule 43, Section 9(d) to allow attorneys to deposit trust funds in federally insured credit unions.

The Credit Union Share Insurance Fund Parity Act, signed by President Obama in December, 2014, provides that lawyers' trust accounts at federally insured credit unions are now fully insured up to \$250,000 by the National Credit Union Association (NCUA).

Since the passage of this federal legislation, credit unions may now offer the same level of insurance for IOLTA accounts through NCUA as offered by banks insured by the Federal Deposit Insurance Corporation (FDIC).

The Board respectfully proposes additional language to Tenn. Sup. Ct. R. 8, RPC 1.15(b) and R. 43, § 9(d) as set forth in attached Exhibit A.

For the foregoing reason, the Board respectfully requests this Court enter an Order amending Tenn. Sup. Ct. R. 8, RPC 1.15(b) and R. 43, § 9(d).

Respectfully submitted,

Michael King By SG w. permission
Michael King, Chair (BPR No. 020830)
Board of Professional Responsibility

King and Thompson, Attorneys at Law
12880 Paris Street
P.O. Box 667
Huntingdon, TN 38344-0667
(731) 986-2266

Sandy Garrett

Sandy Garrett, (BPR No. 013863)
Chief Disciplinary Counsel
Board of Professional Responsibility
10 Cadillac Drive, Suite 220
Brentwood, TN 37027
(615) 361-7500

William Argabrite By SG w/ permission

William Argabrite, Chair (BPR No. 006080)
Tennessee Bar Foundation

Hunter, Smith & Davis, LLP
1212 N. Eastman Road
PO Box 3740
Kingsport, TN 37664-0740
(423) 378-8818

Barri Bernstein By SG w/ permission

Barri Bernstein, (BPR No. 011405)
Executive Director
Tennessee Bar Foundation
618 Church Street, Suite 120
Nashville, TN 37219
(615) 242-1531

CERTIFICATE OF SERVICE

I certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue North, Suite 400, Nashville, Tennessee by U.S. mail, on this the 12th day of July, 2016.

By: Michael King By SG w/ permission
MICHAEL U. KING (#020830)
Chairman of the Board

By: Sandy Garrett
SANDY L. GARRETT (#013863)
Chief Disciplinary Counsel

Exhibit A

RULE 1.15: SAFEKEEPING PROPERTY AND FUNDS

(b) Funds belonging to clients or third persons shall be deposited in a separate account maintained in a financial institution, ~~an FDIC member depository institution,~~ deposits of which are insured by the Federal Deposit Insurance Corporation (FDIC) and/or National Credit Union Association (NCUA), having a deposit-accepting office located in the state where the lawyer's office is situated (or elsewhere with the consent of the client or third person) and which participates in the required overdraft notification program as required by Supreme Court Rule 9, Section 35.1. A lawyer may deposit the lawyer's own funds in such an account for the sole purpose of paying financial institution service charges or fees on that account, but only in an amount reasonably necessary for that purpose. Other property shall be identified as such and appropriately safeguarded. Complete records of such funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

RULE 43, SECTION 9

Section 9. Deductions by the financial institution from interest earned may only be for allowable reasonable service charges or fees calculated in accordance with the institution's standard practice for non-IOLTA customers. For purposes of this Rule, "allowable reasonable service charges or fees" are defined as:

- (a) per check or electronic debit charges;
- (b) per deposit or electronic credit charges;
- (c) a fee in lieu of minimum balance;
- (d) FDIC insurance fees or FDIC account guarantee fees and/or NCUA insurance fees or NCUA account guarantee fees;
- (e) a sweep fee; and
- (f) a reasonable IOLTA account administrative fee.

Other financial institution service charges or fees shall not be deducted from IOLTA account interest and shall be the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLTA account. Nothing in this Rule shall be construed to require that a financial institution charge fees on an IOLTA account, nor does anything in this Rule prohibit a financial institution from waiving or discounting fees associated with an IOLTA account.