



**THE STATE BAR
OF CALIFORNIA**

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OFFICE OF PROFESSIONAL COMPETENCE

PLANNING, AND DEVELOPMENT

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III.B. Rule 4-100 [1.15]

June 2-3, 2016

Open Session

M E M O R A N D U M

DATE: May 18, 2016

TO: Members, Commission for the Revision of the Rules of Professional Conduct

FROM: Rule 4-100 [1.15] Drafting Team (Mark Tuft (L), James Ham and Raul Martinez)

SUBJECT: Proposed Rule 1.15: Inclusion of Provision Requiring Deposit of Advance Fees in Trust Account and Comment Regarding Third Party Liens

Summary:

The drafting team assigned to study current rule 4-100 [proposed rule 1.15] recommends that: (1) if paragraph (a) is revised to state that advance fee payments must be held in trust, that the Commission also consider adoption of a new paragraph (b) to address a lawyer's handling of a flat fee paid in advance; and (2) the Commission adopt three proposed comments recommended by the drafting team. (See Exhibit 1 for the full text of proposed rule 1.15 as recommended by the drafting team and Exhibit 2 for the redline comparison to California Rule 4-100.)

Background:

At the Commission's May 6 & 7, 2016 meeting, the Commission adopted the black letter of proposed rule 1.15 following consideration of the drafting team's report.¹ Adoption was subject to consideration of comments to be prepared by the team for the June meeting. The team's report also recommended that the Commission not address the longstanding issue of whether the trust accounting rule should require that fees paid in advance, including a flat fee, be held in trust until the fees have been earned. The Commission discussed the recommendation on advance fees and took a vote to ascertain the sense of the Commission and to determine instructions for drafting team. The Commission voted 8 yes, 7 no and 0 abstentions on a motion that the team be requested to develop a proposal for requiring advance fees to be held in trust.

Discussion:

The drafting team met by teleconference on May 12, 2016 and, in accordance with the instructions of the Commission, the team revised paragraph (a) of the rule to require that advance fees be held in trust.² The team also drafted a new paragraph (b) to address

¹ The recordkeeping standards in the team's report were also adopted as standards that the Board would consider for implementation under the authority granted to the Board by the rule. (See current rule 4-100(C) [proposed rule 1.15(e)].)

² Paragraph (a), in relevant part, has been revised as follows: "All funds received. . . , including advances for fees, costs and expenses, shall be deposited in one or more identifiable [trust accounts]."

the specific issue of a lawyer's handling of *flat* fees paid in advance, including a protocol that would permit a lawyer to hold such fees in a firm's operating account rather than a trust account. In addition, the team prepared three proposed rule comments.

Special Provision for Flat Fees - Proposed Paragraph (b)

Proposed paragraph (b) provides:

- (b) Notwithstanding paragraph (a), a flat fee paid in advance for legal services may be deposited in a lawyer's or law firm's operating account, provided:
 - (1) The lawyer or law firm discloses to the client in writing (i) that the client has a right under paragraph (a) to require that the flat fee be deposited in an identified trust account until the fee is earned, and (ii) that the client is entitled to a refund of any amount of the fee that has not been earned in the event the representation is terminated or the services for which the fee has been paid are not completed, and
 - (2) The client's agreement to deposit the flat fee in the lawyer's operating account and the disclosures required by paragraph (b)(1) are set forth in a writing signed by the client.

Paragraph (b) is intended to balance competing interests: (i) the public protection afforded by a rule intended to assure that unearned fees are available for a refund to a client; and (ii) the freedom of a lawyer and client by agreement to set the terms of a fee arrangement.

Reports of insufficient funds in a client trust account are a significant concern in attorney discipline.³ At the same time, commenters have asserted that placement of certain fees in a client trust account is contrary to a client's best interest and impairs a lawyer's ability to focus on a client's representation. In particular, comments from criminal defense lawyers and lawyers who represent clients against the Internal Revenue Service or Franchise Tax Board have expressed concerns that holding advance fees in a trust account creates unnecessary risks of the loss of those funds through government seizure or forfeiture.⁴

³ The [2015 State Bar Annual Discipline Report](#) indicates that: "The most common action reported by others, accounting for approximately eighty percent of all reports each year, was actions falling under [Bus. & Prof. Code] section 6091.1, which requires financial institutions to report overdrafts from attorney trust accounts." (2015 State Bar Annual Discipline Report at p. 19.)

⁴ For example, in 2010 RRC1 received a comment from attorney Paul L. Gabbert stating:

In criminal securities litigation involving federal prosecutors and the Securities and Exchange Commission ("SEC") payment of attorney's fees and the relationship of that payment to restraining orders and preliminary injunctions can not only distract the attorney from the case she was hired to defend, it can eclipse the underlying case and result in the attorney having to defend herself in contempt proceedings based on how her fee was paid. Even when the attorney prevails in the litigation, this can result in the functional equivalent of a fee forfeiture because the cost of successfully defending the civil contempt action can greatly reduce or eradicate the fee

Paragraph (b) seeks to accommodate both of these interests by permitting a flat fee paid in advance to be held in a law firm operating account so long as the lawyer provides a mandatory disclosure to the client and obtains the client's agreement in a writing signed by the client. This permissive option is intended to be limited to a *flat* fee paid in advance rather than all fees paid in advance, in part, because commenters have expressed the view that this particular fee arrangement represents a situation where the fees are earned upon receipt and holding such fees in a client trust would be inconsistent with the basic fiduciary obligation to segregate funds that belong to a lawyer or law firm. Similarly, paragraph (b) would not apply to a true retainer fee as defined in proposed rule 1.5(d) and (e) [rule 3-700(D)(2)].

Although paragraph (b) permits a flat fee to be held in a law firm operating account, it does not diminish a lawyer's obligation to account for the funds or to refund any amount owing to a client due to a subsequent unexpected failure of consideration. For example, a situation could arise where the lawyer is unable to complete the contemplated legal services due to accident or illness.

The approach proposed in paragraph (b) builds on the State Bar's prior attempts to implement rule changes in the area of advance fees. This includes a 1992 rule filing that would have amended rule 4-100 to provide that: "Unless a written fee agreement expressly provides that a fee paid in advance is earned when paid or is a true retainer (as set forth in rule 3-700(D)(2)), all advance fees received shall be deposited in one or more [client trust accounts]." (See October 1992 State Bar rule filing, Supreme Court case no. S029270.) It also includes an effort in 1997 by COPRAC that would have required advance fees to be held in trust unless the lawyer obtained a client's informed written authorization to deposit those funds in another account. These attempts created issues that precipitated questions or substantial adverse public comment. With respect to the 1992 proposal, the Supreme Court raised a question about an ambiguity as to the use of the term "earned when paid" and the duty to refund "unearned" fees. The 1997 proposal also engendered claims of ambiguity. The proposal was criticized, in part, for creating a new concept of "informed written authorization" that was perceived as more than written disclosure but less than informed consent. The drafting team believes that proposed paragraph (b) is responsive to the concerns raised with respect to these prior attempts at reform.

The drafting team also considered whether proposed paragraph (b) would work together with the Commission's non-refundable and flat fee provisions in proposed rule 1.5 ("Fees for Legal Services") (see Exhibit 3) that include a definition of a "flat fee," and concluded that it would. In relevant part, proposed rule 1.5 states that:

(d) A lawyer may make an agreement for, charge, or collect a fee that is denominated as "earned on receipt" or "non-refundable," or in similar terms, only if the fee is a true retainer and the client agrees in writing after disclosure that the client will not be entitled to a refund of all or part of the fee charged. A true retainer is a fee that a client pays to a lawyer to ensure the lawyer's availability to the client during a specified period or on a specified matter, but not to any extent as compensation for legal services performed or to be performed.

(e) A lawyer may make an agreement for, charge, or collect a flat fee for specified legal services as long as the lawyer performs the agreed upon services. A flat fee is a fee which constitutes complete payment for legal fees to be performed in the future for a fixed sum regardless of the

paid to defend the client in the underlying criminal action. . . .¶ True retainers and other fixed fees are the only way for practitioners to avoid these pitfalls.

amount of work ultimately involved and which may be paid in whole or in part in advance of the lawyer providing those services.

Taken together, the proposed rules 1.5 and 1.15 would implement enhanced public protection by: (1) prohibiting a “nonrefundable fee” except for a true retainer; (2) generally requiring that advanced fees be held in trust; and (3) providing a limited permissive option for flat fee arrangements. Consistent with Commission’s request at the May meeting, the drafting recommends that if paragraph (a) of proposed rule 1.15 is revised to state that advance fee payments must be held in trust, that the Commission also recommend adoption of new paragraph (b).

Proposed Comments

The drafting team recommends three comments to proposed rule 1.15. Comment [1] addresses a lawyer’s responsibilities for trust funds when the funds are subject to a third party lien. The comment clarifies the application of paragraph (a). Comment [2] explains that the term “advances for fees” encompasses the concept of present payment to a lawyer for legal services expected to be performed in the future. This comment also provides a cross reference to proposed rule 1.5(d) and (e), which are set out above. Comment [3] clarifies that if the permissive protocol in paragraph (b) is not utilized, a flat fee paid in advance must be held in a trust account. This comment also states that paragraph (b) does not apply to advanced costs or expenses and does not alter a lawyer’s obligation to establish that a fee has been earned.

Conclusion:

In accordance with the foregoing, the drafting team recommends that the Commission adopt proposed rule 1.15 as set forth in Exhibit 1.

EXHIBIT 1 – CLEAN

Rule 1.15 Safekeeping Funds and Property of Clients and Other Persons

- (a) All funds received or held by a lawyer or law firm for the benefit of a client, or other person to whom the lawyer owes a contractual, statutory, or other legal duty, including advances for fees, costs and expenses, shall be deposited in one or more identifiable bank accounts labelled “Trust Account” or words of similar import, maintained in the State of California, or, with written consent of the client, in any other jurisdiction where there is a substantial relationship between the client or the client’s business and the other jurisdiction.
- (b) Notwithstanding paragraph (a), a flat fee paid in advance for legal services may be deposited in a lawyer’s or law firm’s operating account, provided:
 - (1) The lawyer or law firm discloses to the client in writing (i) that the client has a right under paragraph (a) to require that the flat fee be deposited in an identified trust account until the fee is earned, and (ii) that the client is entitled to a refund of any amount of the fee that has not been earned in the event the representation is terminated or the services for which the fee has been paid are not completed, and
 - (2) The client’s agreement to deposit the flat fee in the lawyer’s operating account and the disclosures required by paragraph (b)(1) are set forth in a writing signed by the client.
- (c) Funds belonging to the lawyer or the law firm shall not be deposited or otherwise commingled with funds held in a trust account except:
 - (1) funds reasonably sufficient to pay bank charges.
 - (2) funds belonging in part to a client or other person and in part presently or potentially to the lawyer or the law firm, in which case the portion belonging to the lawyer or law firm must be withdrawn at the earliest reasonable time after the lawyer or law firm’s interest in that portion becomes fixed. However, if a client or other person disputes the lawyer or law firm’s right to receive a portion of trust funds, the disputed portion shall not be withdrawn until the dispute is finally resolved.
- (d) A lawyer shall:
 - (1) promptly notify a client or other person of the receipt of funds, securities, or other property in which the lawyer knows or reasonably should know the client or other person has an interest;
 - (2) identify and label securities and properties of a client or other person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable;
 - (3) maintain complete records of all funds, securities, and other property of a client or other person coming into the possession of the lawyer or law firm;

- (4) promptly account in writing to the client or other person for whom the lawyer holds funds or property;
 - (5) preserve records of all funds and property held by a lawyer or law firm under this Rule for a period of no less than five years after final appropriate distribution of such funds or property;
 - (6) comply with any order for an audit of such records issued pursuant to the Rules of Procedure of the State Bar.
 - (7) promptly distribute, as requested by the client or other person, any undisputed funds or property in the possession of the lawyer or law firm that the client or other person is entitled to receive.
- (e) The Board of Trustees of the State Bar shall have the authority to formulate and adopt standards as to what "records" shall be maintained by lawyers and law firms in accordance with subparagraph(d)(3). The standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on all lawyers.

Standards:

Pursuant to this Rule, the Board of Trustees of the State Bar adopted the following standards, effective January 1, [1993], as to what "records" shall be maintained by lawyers and law firms in accordance with subparagraph (d)(3).

- (1) A lawyer shall, from the date of receipt of funds of the client or other person through the period ending five years from the date of appropriate disbursement of such funds, maintain:
 - (a) a written ledger for each client or other person on whose behalf funds are held that sets forth:
 - (i) the name of such client or other person,
 - (ii) the date, amount and source of all funds received on behalf of such client or other person,
 - (iii) the date, amount, payee and purpose of each disbursement made on behalf of such client or other person, and
 - (iv) the current balance for such client or other person;
 - (b) a written journal for each bank account that sets forth:
 - (i) the name of such account,
 - (ii) the date, amount and client affected by each debit and credit, and
 - (iii) the current balance in such account;
 - (c) all bank statements and cancelled checks for each bank account; and
 - (d) each monthly reconciliation(balancing) of (a), (b), and(c).

- (2) A lawyer shall, from the date of receipt of all securities and other properties held for the benefit of client or other person through the period ending five years from the date of appropriate disbursement of such securities and other properties, maintain a written journal that specifies:
- (a) each item of security and property held;
 - (b) the person on whose behalf the security or property is held;
 - (c) the date of receipt of the security or property;
 - (d) the date of distribution of the security or property; and
 - (e) person to whom the security or property was distributed.

Comment

[1] Whether a lawyer owes a contractual, statutory or other legal duty under paragraph (a) to hold funds on behalf of a person other than a client in situations where client funds are subject to a third-party lien will depend on the relationship between the lawyer and the third party, whether the lawyer has assumed a contractual obligation to the third person and whether the lawyer has an independent obligation to honor the lien under a statute or other law. A lawyer may be civilly liable when the lawyer has notice of a lien and disburses funds in contravention of the lien. See *Kaiser Foundation Health Plan, Inc. v. Aguiluz* (1996) 47 Cal.App.4th 302. However, civil liability by itself does not establish a violation of this Rule. Compare *Johnstone v. State Bar of California* (1966) 64 Cal.2d 153, 155-156 (“When an attorney assumes a fiduciary relationship and violates his duty in a manner that would justify disciplinary action if the relationship had been that of attorney and client, he may properly be disciplined for his misconduct.”) and *Crooks v. State Bar* (1970) 3 Cal.3d 346, 358 (lawyer who agrees to act as escrow or stakeholder for a client and a third party owes a duty to the nonclient with regard to held funds).

[2] As used in this Rule, “advances for fees” means a payment intended by the client as an advance payment for some or all of the services that the lawyer is expected to perform on the client's behalf. With respect to the difference between a flat fee and a true retainer, see Rule 1.5(d) and (e).

[3] Absent written disclosure and the client's agreement in a writing signed by the client as provided in paragraph (b), a lawyer must deposit a flat or fixed fee paid in advance of legal services in the lawyer's trust account. Paragraph (b) does not apply to advance payment for costs and expenses. Paragraph (b) does not alter the lawyer's obligations under paragraph (d) or the lawyer's burden to establish that the fee has been earned.

EXHIBIT 2 – REDLINE TO CALIFORNIA RULE 4-100

Rule ~~4-100~~ ~~Preserving Identity of~~ 1.15 Safekeeping Funds and Property of ~~a Client~~ Clients and Other Persons

(a) All funds received or held by a lawyer or law firm for the benefit of ~~clients by a member or law firm~~ a client, or other person to whom the lawyer owes a contractual, statutory, or other legal duty, including advances for fees, costs and expenses, shall be deposited in one or more identifiable bank accounts ~~labeled~~ labelled “Trust ~~Account,~~” “~~Client’s Funds~~ Account” or words of similar import, maintained in the State of California, or, with written consent of the client, in any other jurisdiction where there is a substantial relationship between the client or the client’s business and the other jurisdiction. ~~No funds~~

(b) Notwithstanding paragraph (a), a flat fee paid in advance for legal services may be deposited in a lawyer’s or law firm’s operating account, provided:

(1) The lawyer or law firm discloses to the client in writing (i) that the client has a right under paragraph (a) to require that the flat fee be deposited in an identified trust account until the fee is earned, and (ii) that the client is entitled to a refund of any amount of the fee that has not been earned in the event the representation is terminated or the services for which the fee has been paid are not completed, and

(2) The client’s agreement to deposit the flat fee in the lawyer’s operating account and the disclosures required by paragraph (b)(1) are set forth in a writing signed by the client.

~~(A)~~ (c) Funds belonging to the ~~member~~ lawyer or the law firm shall not be deposited ~~therein~~ or otherwise commingled therewith with funds held in a trust account except ~~as follows~~:

(1) ~~Funds~~ funds reasonably sufficient to pay bank charges.

(2) ~~In the case of~~ funds belonging in part to a client or other person and in part presently or potentially to the ~~member~~ lawyer or the law firm, in which case the portion belonging to the ~~member~~ lawyer or law firm must be withdrawn at the earliest reasonable time after the ~~member’s~~ lawyer or law firm’s interest in that portion becomes fixed. However, ~~when the right of the member~~ if a client or other person disputes the lawyer or law ~~firm’s~~ right to receive a portion of trust funds ~~is disputed by the client~~, the disputed portion shall not be withdrawn until the dispute is finally resolved.

~~(B)~~ (d) A ~~member~~ lawyer shall:

(1) ~~Promptly~~ promptly notify a client or other person of the receipt of ~~the client’s~~ funds, securities, or other ~~properties~~ property in which the lawyer knows or reasonably should know the client or other person has an interest;

- (2) ~~Identify~~identify and label securities and properties of a client or other person promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable~~;~~;
 - (3) ~~Maintain~~maintain complete records of all funds, securities, and other ~~properties~~property of a client or other person coming into the possession of the ~~member~~lawyer or law firm ~~and render appropriate accounts to the client regarding them;~~
 - (4) promptly account in writing to the client or other person for whom the lawyer holds funds or property;
 - (5) preserve ~~such~~ records of all funds and property held by a lawyer or law firm under this Rule for a period of no less than five years after final appropriate distribution of such funds or ~~properties~~property~~;~~and
 - ~~(3)~~ (6) comply with any order for an audit of such records issued pursuant to the Rules of Procedure of the State Bar.
 - ~~(4)~~ — ~~Promptly pay or deliver, as requested by the client, any funds, securities, or other properties in the possession of the member which the client is entitled to receive.~~
 - (7) promptly distribute, as requested by the client or other person, any undisputed funds or property in the possession of the lawyer or law firm that the client or other person is entitled to receive.
- ~~(C)~~ (e) The Board of ~~Governors~~Trustees of the State Bar shall have the authority to formulate and adopt standards as to what “records” shall be maintained by ~~members~~lawyers and law firms in accordance with subparagraph ~~(Bd)~~ (3). The standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on all ~~members~~lawyers.

Standards:

Pursuant to ~~rule 4-100(C)~~this Rule, the Board of ~~Governors~~Trustees of the State Bar adopted the following standards, effective January 1, [1993], as to what ~~“records”~~ shall be maintained by ~~members~~lawyers and law firms in accordance with subparagraph ~~(Bd)~~ (3).

- (1) A ~~member~~lawyer shall, from the date of receipt of ~~client~~ funds of the client or other person through the period ending five years from the date of appropriate disbursement of such funds, maintain:
 - (a) written ledger for each client or other person on whose behalf funds are held that sets forth:
 - (i) the name of such client or other person,
 - (ii) the date, amount and source of all funds received on behalf of such client or other person,
 - (iii) the date, amount, payee and purpose of each disbursement made on behalf of such client or other person, and

- (iv) the current balance for such client or other person;
 - (b) a written journal for each bank account that sets forth:
 - (i) the name of such account,
 - (ii) the date, amount and client affected by each debit and credit, and
 - (iii) the current balance in such account;
 - (c) all bank statements and ~~canceled~~cancelled checks for each bank account; and
 - (d) each monthly reconciliation(balancing) of (a), (b), and(c).
- (2) A ~~member~~lawyer shall, from the date of receipt of all securities and other properties held for the benefit of client or other person through the period ending five years from the date of appropriate disbursement of such securities and other properties, maintain a written journal that specifies:
- (a) each item of security and property held;
 - (b) the person on whose behalf the security or property is held;
 - (c) the date of receipt of the security or property;
 - (d) the date of distribution of the security or property; and
 - (e) person to whom the security or property was distributed.

Comment

[1] Whether a lawyer owes a contractual, statutory or other legal duty under paragraph (a) to hold funds on behalf of a person other than a client in situations where client funds are subject to a third-party lien will depend on the relationship between the lawyer and the third party, whether the lawyer has assumed a contractual obligation to the third person and whether the lawyer has an independent obligation to honor the lien under a statute or other law. A lawyer may be civilly liable when the lawyer has notice of a lien and disburses funds in contravention of the lien. See *Kaiser Foundation Health Plan, Inc. v. Aguiluz* (1996) 47 Cal.App.4th 302. However, civil liability by itself does not establish a violation of this Rule. Compare *Johnstone v. State Bar of California* (1966) 64 Cal.2d 153, 155-156 (“When an attorney assumes a fiduciary relationship and violates his duty in a manner that would justify disciplinary action if the relationship had been that of attorney and client, he may properly be disciplined for his misconduct.”) and *Crooks v. State Bar* (1970) 3 Cal.3d 346, 358 (lawyer who agrees to act as escrow or stakeholder for a client and a third party owes a duty to the nonclient with regard to held funds).

[2] As used in this Rule, “advances for fees” means a payment intended by the client as an advance payment for some or all of the services that the lawyer is expected to perform on the client's behalf. With respect to the difference between a flat fee and a true retainer, see Rule 1.5(d) and (e).

[3] Absent written disclosure and the client's agreement in a writing signed by the client as provided in paragraph (b), a lawyer must deposit a flat or fixed fee paid in advance of legal services in the lawyer's trust account. Paragraph (b) does not apply to advance payment for costs and expenses. Paragraph (b) does not alter the lawyer's obligations under paragraph (d) or the lawyer's burden to establish that the fee has been earned.

EXHIBIT 3

Rule 4-200 [1.5] Fees for Legal Services (Commission's Proposed Rule Adopted on September 25 & 26, 2015 – Clean Version)

- (a) A lawyer shall not make an agreement for, charge, or collect an unconscionable or illegal fee.
- (b) Unconscionability of a fee shall be determined on the basis of all the facts and circumstances existing at the time the agreement is entered into except where the parties contemplate that the fee will be affected by later events. The factors to be considered in determining the unconscionability of a fee include without limitation the following:
 - (1) whether the lawyer engaged in fraud or overreaching in negotiating or setting the fee;
 - (2) whether the lawyer has failed to disclose material facts;
 - (3) the amount of the fee in proportion to the value of the services performed;
 - (4) the relative sophistication of the lawyer and the client;
 - (5) the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (6) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (7) the amount involved and the results obtained;
 - (8) the time limitations imposed by the client or by the circumstances;
 - (9) the nature and length of the professional relationship with the client;
 - (10) the experience, reputation, and ability of the lawyer or lawyers performing the services;
 - (11) whether the fee is fixed or contingent;
 - (12) the time and labor required;
 - (13) whether the client gave informed consent to the fee.
- (c) A lawyer shall not enter into an arrangement for, charge, or collect:
 - (1) any fee in a family law matter, the payment or amount of which is contingent upon the securing of a dissolution or declaration of nullity of a marriage or upon the amount of spousal or child support, or property settlement in lieu thereof; or
 - (2) a contingent fee for representing a defendant in a criminal case.

- (d) A lawyer may make an agreement for, charge, or collect a fee that is denominated as “earned on receipt” or “non-refundable,” or in similar terms, only if the fee is a true retainer and the client agrees in writing after disclosure that the client will not be entitled to a refund of all or part of the fee charged. A true retainer is a fee that a client pays to a lawyer to ensure the lawyer’s availability to the client during a specified period or on a specified matter, but not to any extent as compensation for legal services performed or to be performed.
- (e) A lawyer may make an agreement for, charge, or collect a flat fee for specified legal services as long as the lawyer performs the agreed upon services. A flat fee is a fee which constitutes complete payment for legal fees to be performed in the future for a fixed sum regardless of the amount of work ultimately involved and which may be paid in whole or in part in advance of the lawyer providing those services.

Comment

Prohibited Contingent Fees

[1] Paragraph (c)(1) does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under child or spousal support or other financial orders.

Payment of Fees in Advance of Services

[2] When a lawyer-client relationship terminates, the lawyer must refund the unearned portion of a fee. See Rule [1.16(e)(2)].

Division of Fee

[3] A division of fees among lawyers is governed by Rule 1.5.1 [2-200].