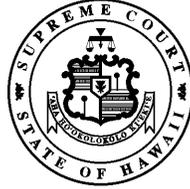


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## FORMAL OPINION NO. 45

### HANDLING CREDIT CARD PAYMENTS

An attorney may accept credit cards in payment of legal fees and expenses, except as prohibited by law or the Hawai'i Rules of Professional Conduct.

An attorney who accepts credit card payments for retainers, flat fees, and/or earned fees has three choices in the handling of these funds: 1) deal with a banking institution which allows the attorney to direct the deposit of these funds into specific accounts; 2) have two credit card plans - one solely for the client trust account for retainers and flat fees and one solely for a business or other nontrust account; or 3) accept credit card payments only for retainers and flat fees to be deposited into a trust account or accept credit card payments only for earned fees to be deposited into a business or other nontrust account. "Holding" or "clearing" accounts commingling these types of funds (retainers, flat fees, and earned fees) violate HRPC 1.15.

Unearned retainers and flat fees must be deposited intact into a trust account. HRPC 1.15(c); Rules Governing Trust Accounting, Rule 4. These funds must be maintained in trust until earned. RGTA 4(a).

Earned fees cannot be deposited into a trust account. HRPC 1.15(a) (commingling); RGTA 4(a).

Any charges associated with the acceptance of credit cards may be charged to the client with the client's advance consent. HRPC 1.2; HRPC 1.4(b). If any charges associated with the acceptance of credit cards are charged against a client trust account and the client has not given advance consent to charges, the attorney must deposit into the account funds reasonably sufficient to pay these bank charges. HRPC 1.5(b).

*The Disciplinary Board's mission is to maintain the integrity of the legal profession  
and protect the public from professional misconduct by attorneys.*

DATED: Honolulu, Hawai'i, June 26, 2003

Carroll S. Taylor  
Chairperson, Disciplinary Board

UPDATED: Honolulu, Hawai'i, March 19, 2015



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Hon. Clifford L. Nakea (Ret.)  
Chairperson, Disciplinary Board