

## Avoid These 10 Common Mistakes to Make Trust Account Management Trouble Free

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The Real Estate Commission has three rules governing how brokers handle and account for trust monies - A.0116, .0117, and .0118. Additionally, the nrec.gov website has a number of videos available on trust account handling. Familiarize yourself with these rules to avoid the following common mistakes.

1. DO YOU deposit money into the trust account and then move the money into an operating account to pay clients or invoices?

A variation on the same theme is depositing trust monies into an operating account and then transferring them into the trust account. Well, DON'T! All trust monies must be deposited into a trust account and all clients and invoices need to be paid out from the trust account. The only time it is acceptable to move money from a trust account into an operating account is when you are disbursing your earned commission or are reimbursing yourself for invoices that were paid by you from your operating account in advance and on behalf of the client.

If the bank account into which you deposit client monies is not identified as a trust or escrow account, then it will not be treated as such by the IRS or courts, meaning they can attach or freeze the monies. The FDIC may also deny insurance coverage for each individual customer whose money is deposited into an account not properly designated.

2. DO YOU pay client proceeds before the rent or other incoming money clears the account?

Well, DON'T! Ensure that incoming funds clear prior to paying the client or any invoices on behalf of the client. Failure to do so can cause a deficit in the account if the funds do not clear.

3. DO YOU allow bank service fees to be charged against the trust account and then reimburse the account after the fact?

Well, DON'T! This also causes a deficit in the account. Instead, make sure that service charges are covered by depositing enough of your own money to cover them and keep a ledger to keep track of those personal funds.

4. DO YOU leave interest, commissions, reservation fees or monies for credit/background checks that belong to the broker or others in the trust account beyond 30 days?

Well DON'T! To do so is commingling. Also, don't use a money market account if it requires a large balance of personal funds in order to avoid service fees - that is also

commingling. Money market accounts are acceptable if there is a large enough balance of customer funds, such as a security deposit trust account holding a substantial number of deposits.

5. DO YOU allow your client to be a signatory on the trust account?

Well, DON'T! Trust accounts must be custodial and if the owner of the funds has access to make their own deposits or withdrawals, then it is no longer a custodial account.

6. DO YOU deposit multiple homeowners' association monies into one trust account?

Well, DON'T! Homeowner's associations must each have their own individual trust account. If you manage ten (10) homeowner's associations, then you must maintain at least ten (10) trust accounts.

7. DO YOU allow your bookkeeper to handle every aspect of maintaining and reconciling the trust account?

Well, DON'T! Embezzlement happens even with trusted bookkeepers or long-time employees and is made easier when one person is in charge of everything. Simple steps can help ensure that trust money is safeguarded. For example, the person who receives cash should not be the same person who reconciles the trust account. Cash receipts should be verified at the end of each day and logged by the broker-in-charge or another person in a supervisory role. And, the bookkeeper should not be the person initially receiving the bank statement. The broker-in-charge should verify the items in the bank statement against the journal and also check cash receipts against deposits on a monthly basis, prior to the reconciliation. A bookkeeper who never takes vacations or is obsessed with getting the mail is not a good thing, it is a RED FLAG.

8. DO YOU take possession of checks or cash but deposit the items directly into a client's account?

Well, DON'T! If you "touch" the money, then you must have a trust account and the money must go through your trust account. If the check is written to the client, do not accept it. The only time it is acceptable for a broker to deliver monies to a client is when the payment is subject to a specific exception such as a due diligence check or check payable to a designated escrow agent.

9. DO YOU use trust account money to pay for repairs to a property if the client does not have sufficient funds in the trust account to cover the repair?

Well, DON'T! Just because there is \$50,000 in the trust account does not mean that you can pay for a new water heater costing \$1000 for client Smith if only \$200 of the \$50,000 belongs to client Smith. To do so means you are using other clients' money to pay for client Smith's water heater and causing a deficit in client Smith's ledger. No client should ever have a negative balance on their ledger.

10. DO YOU disburse late fees or commissions even if the tenants have not paid the late fee or paid rent for the month?

Well, DON'T! If a tenant owes a \$15 late fee but has not paid that amount, do not pay yourself or the client the late fee. Disbursements on rentals must be calculated upon the amount actually paid for that month.

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If this sounds confusing, you are not alone. Come to one of our monthly trust account courses and learn the rules in detail. Bring along anyone who also handles trust accounts for your firm. As a broker-in-charge, at a minimum you will learn what you need to know to adequately supervise your bookkeeper and what you or your software program needs to be able to produce in the way of reports in order to be compliant. As a bonus, it qualifies as an elective continuing education course.