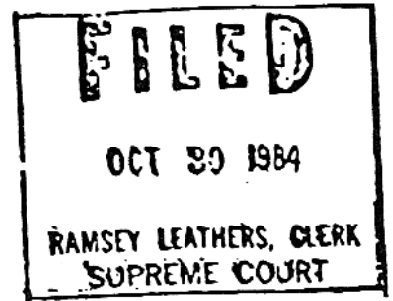


IN THE SUPREME COURT OF TENNESSEE

IN RE:

INTEREST ON LAWYERS
TRUST ACCOUNTS

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ORDER

This cause came on to be heard upon petition of Tennessee Bar Association and the Tennessee Bar Foundation for this Court to authorize the establishment and implementation of a program for the utilization for legal charitable purposes within the State of Tennessee of interest derived from lawyers' trust accounts, and the Court being of the opinion that the petition is well taken, the Petition is sustained. Accordingly, it is

ORDERED, ADJUDGED AND DECREED:

1. Lawyers of the State of Tennessee, on a voluntary basis, may cause their trust accounts to be invested so that the interest derived therefrom may be used for the legal charitable purposes, as herein set forth.

2. The Tennessee Bar Foundation, a not for profit corporation chartered under the laws of the State of Tennessee, is a proper entity to receive the revenues from the lawyer trust account investment program and to disburse those revenues for purposes authorized by this Court; provided, however, the Tennessee Bar Foundation must be structured to be representative of all the lawyers in the State of Tennessee participating in the lawyer trust account investment program.

3. The purposes for which the funds may be used are: delivery of legal services to the poor, student loans, to improve the administration of justice, and such additional or different purposes as are from time to time approved by this Court.

4. This action of the Court makes appropriate additions to the Ethical Considerations, as follows:

E.C. 9-7. As provided in Canons 1 and 2, a lawyer should support efforts to provide legal services to those unable to pay, seek to improve all phases of legal education and encourage and participate in educational programs concerning our legal system. While this responsibility ultimately rests on the individual lawyer, one way in which the lawyer may fulfill these responsibilities is by participation in programs created to provide funds to carry out programs relating to these responsibilities.

E.C. 9-8. A lawyer should exercise good faith judgment in determining initially whether funds of a client are of such nominal amount or are expected to be held by the lawyer for such a short period of time that the funds should not be placed in an interest bearing insured depository account for the benefit of the client. The lawyer should also consider such other factors as:

(a) The cost of establishing and maintaining the account, service charges, accounting fees and tax reporting procedure;

(b) The nature of the transaction(s) involved; and

(c) The likelihood of delay in the relevant proceedings.

E.C. 9-9. A lawyer should review at reasonable intervals whether changed circumstances require further action respecting the deposit of client funds.

5. Rule 9-102 of the Disciplinary Rules is hereby amended to provide as follows:

DR 9-102.

(A) All funds of clients paid to a lawyer or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable insured depository institutions maintained in the state in which the law office is situated.

For purposes of this rule, 'insured depository institution' shall mean an institution maintaining government insured depository accounts on which withdrawals or transfers can be made on demand, subject only to such notice period which the institution is required to observe by law or regulation. No funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay service charges may be deposited therein;

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safe-keeping as soon as practicable.

(3) Maintain complete records of all funds securities and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities or other properties in the possession of the lawyer which the client is entitled to receive.

(C) (1) Except as may be authorized by DR 9-102 (C)(2) and (C)(3), interest earned on insured depository accounts in which the funds of clients are deposited less any deduction for service charges, fees of the depository institution, and intangible taxes collected with respect to the deposited funds shall belong to the clients whose funds are deposited and the lawyer or law firm shall have no right or claim to such interest.

(2) A lawyer or law firm with which he is associated who receives client funds may maintain a pooled interest bearing insured depository account for deposit of client funds that are nominal in amount or expected to be held for a short period. Such an account shall comply with the following provisions:

(a) The account shall only include clients' funds which are nominal in amount or are expected to be held for a short period of time.

(b) No interest from such an account shall be made available to a lawyer or law firm.

(c) Lawyers or law firms depositing client funds in an interest bearing insured depository account under this paragraph (C) (2) shall direct the depository institution:

(i) to remit interest, net any service charges or fees, as computed in accordance with the institution's standard accounting practice, at least quarterly, to the Tennessee Bar Foundation; and

(ii) to transmit with each remittance to the Tennessee Bar Foundation a statement showing the name of the lawyer or law firm on whose account the remittance is sent and the rate of interest applied, with a copy of such statement to be transmitted to the lawyer or the law firm.

(d) The determination of whether funds are nominal in amount or are to be held for a short period of time rests in the sound discretion of the lawyer and no charge of ethical impropriety or other breach of professional conduct shall attend an attorney's exercise of good faith judgment in that regard. A lawyer may notify his clients of his participation in an Interest on Lawyers' Trust Accounts program.

(e) All interest transmitted to the Tennessee Bar Foundation shall be distributed by that entity for the following purposes:

(i) to provide legal assistance to the poor;

(ii) to provide student loans, grants, and scholarships to deserving law students;

(iii) to improve the administration of justice; and

(iv) for such other programs for the benefit of the public as are specifically approved by the Supreme Court of the State of Tennessee from time to time.

6. Within 60 days after entry of this Order the Petitioners shall consult with all organized segments of the Bar of Tennessee and then present to the Court a plan of implementation of the program authorized herein, which plan shall describe the structure of the Tennessee Bar Foundation in accordance with this Order and the means of establishing lawyer bank accounts and assignment of the interest therefrom in compliance with this Order. The plan shall contain a statement from the Tennessee Bar Foundation as to its plans and purposes for educating and encouraging the lawyers of the State of Tennessee to participate in the program, and for receiving, managing, investing and dispensing the revenues produced by the program.

This the 30th day of October ~~September~~ at Nashville, 1984.

APPROVED FOR ENTRY:

Coel Porter
TENNESSEE BAR ASSOCIATION

Arthur Sims
TENNESSEE BAR FOUNDATION

Robert Turnbull
TENNESSEE TRIAL LAWYERS
ASSOCIATION

St. Louis
Chief Justice

Wm H D Jones
Justice

Leslie P. ...
Justice

William J. ...
Justice

Frank F. ...
Justice

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: INTEREST ON LAWYERS' TRUST ACCOUNTS

ORDER

FILED

JUN 27 1985

RAMSEY LEATHERS, CLERK
SUPREME COURT

By order entered October 30, 1984, this Court authorized the establishment and implementation of a program for the utilization of interest derived from lawyers' trust accounts for charitable purposes. Implementation of the order was conditioned, however, upon the restructuring of the Tennessee Bar Foundation so as to make it representative of all lawyers in the state participating in the trust account investment program.

Subsequently the bylaws of the Tennessee Bar Foundation have been amended so as to make all attorneys participating in the program members of that foundation.

Said order further required that the Tennessee Bar Foundation present a plan for the implementation of its program. Said plan has been presented. After consideration by the Court, the same is approved.

Accordingly the Tennessee Bar Foundation is authorized to begin the implementation of the lawyers' trust account investment program as outlined in said order of October 30, 1984.

ENTER this 26th day of June, 1985.

FOR THE COURT:

By:  15
Robert E. Cooper Chief Justice