THE STATE BAR OF CALIFORNIA

OFFICE OF PROFESSIONAL COMPETENCE, PLANNING & DEVELOPMENT

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

TELEPHONE: (415) 538-2116

MEMORANDUM

DATE: November 5, 2008

TO: Members of the Board's Regulation, Admissions & Discipline Oversight Committee

FROM: Randall Difuntorum, Director, Professional Competence Programs

SUBJECT: RAD Meeting on November 10, 2008 – Status of the Professional Competence Unit

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This memorandum provides an update on the activities of the Professional Competence Unit for the period of May through September of 2008. In addition to this memorandum, provided are the following: (1) Professional Competence Staff List; (2) Ethics Hotline Activity Statistics; (3) Volume of Ethics Hotline Calls by Paralegal; and (4) Professional Competence Budget Summary – Authorized vs. Actuals. Board members with questions may contact me at (415) 538-2161 or Lauren McCurdy at (415) 538-2107.

1. ETHICS HOTLINE

→ As of September 30, 2008, 11,071 member inquiries were received with a completion rate of 85%. This completion rate includes distribution of 527 copies of published ethics opinions and other written materials requested by inquirers and 4,580 referrals to information posted at the Bar's website. (As all of the published State Bar Formal Opinions are posted in the Ethics Information Area of the website, there is a decreasing need for distribution by mail.) Of the total calls, 873 were courtesy follow-up calls to members who placed a call to the Hotline, received a call back from Hotline staff but were not available at that time to take the call from the Hotline staff person. These members receive instructions on how to call-in and receive priority handling when they choose to return the Hotline's call at their convenience. However, sometimes they do not call and in those circumstances the Hotline initiates a courtesy follow-up call.

→ For the period of May 1, 2008 through September 30, 2008, 11 voluntary satisfaction surveys were received from members who utilized the Ethics Hotline service. Each survey asks for a rating on several specified categories of service, including: satisfaction with the system for handling the calls; helpfulness of receptionist; helpfulness of paralegal; usefulness of materials sent; whether the inquirer would recommend the Hotline to others; and whether they received the assistance they needed. The surveys received give the Hotline solid marks in each survey category. (A copy of the surveys received are attached.)

→ For the seventh year running, the Professional Competence office sponsored an exhibit booth at the State Bar Annual Meeting in Monterey. Each year this exhibit booth features the Ethics Hotline program and other professional competence resources administered by Professional Competence staff. We continued the prior "Ethics Hotline Café" theme, intended to help brand the Ethics Hotline program as a user-friendly member service that offers information on professional conduct issues that arise on a day-to-day basis. The branding effort seeks to dispel perceptions of the Ethics Hotline program as a crisis hotline that only addresses very serious ethical dilemmas that ordinarily arise on an infrequent basis. The booth staff included Ethics Hotline paralegals who answered ethics questions from exhibit hall visitors. As has been the case in prior years, the presence of Ethics Hotline staff at the State Bar Annual Meeting Exhibit Hall was very favorably received. Members who didn't pose questions often discussed recent professional responsibility developments with the paralegals through the vehicle of a professional responsibility computer game that allowed the members to test their knowledge of the Rules of Professional Conduct. In addition, many visitors simply stopped-by to express their appreciation for the Ethics Hotline program as a long-standing State Bar member benefit. To publicize the Ethics Hotline toll-free telephone number and the Ethics Information page at the State Bar website, over 630 free promotional items were distributed (including: imprinted coffee mugs, highlighter markers, post-it note booklets, and, tape measures). In addition, approximately 120 copies of an Ethics Resources CD-Rom, and 200 copies of a 2008 Rules of Professional Conduct pamphlet were distributed bearing the Ethics Hotline toll-free telephone number and the Ethics Information page URL.

2. COPRAC

→ Since the last Professional Competence status report submitted for the Board Committee's July 10, 2008 meeting, COPRAC met on August 1 & 2, 2008 in Santa Monica, and September 25, 2008 in Monterey.

→ At its August 1 & 2, 2008 meeting, COPRAC received oral public comment during its open session on Formal Opinion Interim No. 05-0001. In response to the Committee's continued consideration of its closed session policy, notice was given to bar members and other interested persons that at this meeting COPRAC would receive oral public comment on draft ethics opinions currently circulating for public comment. Four attorneys attended the Committee's open session and addressed the Committee. The Committee agreed to continue to receive oral public comment on proposed ethics opinions circulating for public comment at future Committee meetings.

→ At its August 1&2, 2008 meeting, COPRAC also considered a draft comment letter concerning an amendment to ABA Model Rule 1.10 (re imputation of conflicts of interest) prepared by the ABA Ethics and Professional Responsibility Committee. On August 7, 2008, COPRAC submitted the comment letter to Diane Karpman, a California Delegate to the ABA..

→ At its September 25, 2008 meeting, following post public comment consideration, COPRAC approved the following opinion for circulation to the Board Committee for the 30-day approval period prior to final publication. These opinions will be circulated to the Board Committee on November 6, 2008 with a deadline for response of December 9. 2008:

Formal Opinion Interim No. 05-0001

ISSUE: What are the ethical ramifications associated with a modification of an attorney fee agreement?

DIGEST: Rule 3-300 of the Rules of Professional Conduct does not apply to a modification of a fee agreement unless the agreement confers on the attorney an ownership, security, possessory, or other pecuniary interest adverse to the client. While rule 3-300 does not per se apply to a modification of a fee agreement after the attorney-client relationship has commenced, any modification of an existing fee agreement must be fair, reasonable, fully explained, and consented to by the client. A number of factors will determine whether modification of a fee agreement meets this standard.

→ At its September 25, 2008 meeting, COPRAC also approved the following opinion for a 90-day public comment circulation ending on February 3, 2009:

Formal Opinion Interim No. 06-0006

ISSUES: Is it ethically proper for an attorney who is settling a fee dispute with a client to include a general release and a Civil Code section 1542 waiver in the settlement agreement? Does the existence of a legal malpractice claim against the attorney alter the ethical propriety of including a general release and section 1542 waiver in the settlement agreement?

DIGEST: If an attorney contemplates entering into a settlement agreement with a current client that includes a general release of a legal malpractice claim or pursues a settlement agreement with a client, the terms of which are broad enough to release a legal malpractice claim, the attorney must promptly disclose to the client the facts giving rise to the legal malpractice claim. The attorney must consider whether it is necessary or appropriate to withdraw from the representation. If the attorney does not withdraw, the attorney must:

1. Comply with rule 3-400(B) by advising the client of the right to seek independent counsel and giving the client an opportunity to do so;

2. Advise the client that the lawyer is not representing or advising the client as to the settlement of the fee dispute or the legal malpractice claim; and

3. Fully disclose to the client the terms of the settlement agreement, in writing, including the possible effect of the general release and section 1542 waiver, unless the client is represented by independent counsel.

→ COPRAC conducted four programs at the State Bar Annual Meeting held in Monterey. The four programs sponsored by COPRAC were entitled “Keeping Your Client Trust Account and Collecting Your Fee,” “Electronic Ethics,” “Recent Significant Developments Affecting the Law of Lawyers,” and “Recognizing Interests and Avoiding Conflicts.” In addition, the Office of Professional Competence sponsored a program entitled “Ethics: Lawyering Over the Top” presented by former RAD co-chair Judy Gilbert, State Bar Chief Trial Counsel Scott Drexel, Commission Member Ellen Peck and Bruce Friedman.

→ COPRAC's next meeting is scheduled for November 14, 2008 and will be held at the Los Angeles State Bar office. A new member orientation will also be held in conjunction with this meeting.

3. RULES REVISION COMMISSION

→ Since the last Professional Competence status report submitted for the Board Committee's July 15, 2008 meeting, the Commission met on June 13, 2008 in Los Angeles, July 25, 2008 in San Francisco, August 29 & 30, 2008 in San Francisco, September 26 & 27, 2008 in Monterey, and October 31, 2008 in Los Angeles. Visitors at the open session of these meetings included: Sheryl Bratton (Public Law Section Ex. Comm.); George Cardona (AUSA, Central Dist., CA); Michael Judge (Los Angeles Public Defender); and Jan Zabriskie (DOJ). The Commission's next meeting is scheduled for December 12, 2008 and will be held at the San Francisco State Bar office.

→ The Commission has nearly completed its consideration of the comments and testimony received on its third group of draft rules. Work also is progressing on preparing a fourth group of draft rules for public comment distribution. Among the draft rules anticipated to be included in the fourth group are Rules: 1.15 (Safekeeping of Property); 1.8.6 (Aggregate Settlements); 3.3 (Candor toward the Tribunal); 3.6 (Trial Publicity); and 3.7 (Lawyer as Witness).

→ The Commission co-presented an educational panel with representatives of two Intellectual Property American Inns of Court at the State Bar Annual Meeting in Monterey. The program was entitled: "What Every Lawyer Needs to Know About the Upcoming Changes to the Rules of Professional Conduct." The program was one of a small group of programs selected for a live webcast and had approximately 200 people in attendance onsite and 94 viewing the webcast. The evaluations forms received for this program gave it top marks.

4. COMPETENCE PUBLICATIONS

→ Handbook on Client Trust Accounting for CA Attorneys:
As of September 30, 2008, 14 copies have been sold. The online version of the handbook posted at the Bar's website was downloaded 131,160 times.

→ California Compendium on Professional Responsibility:
As of September 30, 2008, 241 copies of the Compendium updates were sold. The production of the 2008 Compendium update is due to be completed by the end of the year.

→ CA Rules of Professional Conduct & State Bar (a.k.a Publication No. 250):
As of September 30, 2008, 822 copies of the 2008 Publication 250 were sold and an online PDF version of the Rules of Professional Conduct posted at the Bar's website was downloaded 17,807 times.

5. COMPETENCE RESOURCES AT CALBAR.CA.GOV

→ Updated copy of the *Handbook on Client Trust Accounting for California Attorneys* was posted at the Bar's website.

→ In response to member interest in client trust accounts and bank stability concerns an attorney information sheet and FAQ sheet was posted at the Bar's homepage and the Ethics Hotline page (copies attached).

→ Updated version of the Ethics Hotline Customer Satisfaction Survey posted at the Bar's website.

→ New Ethics Information Web Pages Satisfaction Survey conveyed to IT for posting at the Bar's website.

→ The meeting materials for the Rules Revision Commission's July, August, September, and October meetings were posted at the Commission's Meeting Materials page of the website.

→ COPRAC's Proposed Formal Opinion Interim No. 06-0006 (Inclusion of Civil Code §1542 Waiver in Settlement of Fee Dispute with Client) was posted at the Public Comment area of the website.

→ *California Compendium on Professional Responsibility* Index updated to include cases through December 31, 2007 was posted at the Bar's website.

cc: Marie M. Moffat
Robert A. Hawley
Doug Hull

Professional Competence Staff List

Professional Competence Staff Positions as of September 30, 2008	
Number of Positions Authorized	14.5
Number of Positions Filled	13.5

Professional Competence Employees as of September 30, 2008	
	Grade & Classification
	56EA – Director
VACANT	17A – Sr. Attorney
	16A – Attorney
	40C – Sr. Administrative Specialist
	9 – Program/Court Systems Analyst (P/CSA)
	8 - Sr. Administrative Assistant
	8 – Paralegal
	8 – Paralegal
	8 – Paralegal
	8 – Paralegal
	8 – Paralegal
	8 – Paralegal
VACANT (Hiring decision expected to be made by the end of November.)	8 – Paralegal
	6 – Administrative Secretary
	4 – Data Analyst II
NOTES: The P/CSA is a shared position between the Office of General Counsel and the Office of Professional Competence. In addition, though not represented in the above chart, casual hourly law clerks are used from time to time.	

ETHICS HOTLINE ACTIVITY STATISTICS - 2008

Month	Work Days	Incoming Calls	Completed Calls	Left Messages	Percentage of Incoming Calls that are Completed Calls	Percentage of Incoming Calls that are Left Messages	Resources Mailed/Faxed	Internet Resource Referrals
January	21	1241	1036	205	83%	17%	51	456
February	19	1092	857	235	78%	22%	33	445
March	20	1224	1041	183	85%	15%	68	486
April	22	1377	1139	238	83%	17%	78	558
May	21	1240	1024	216	83%	17%	59	482
June	21	1162	1010	152	87%	13%	52	538
July	22	1284	1160	124	90%	10%	79	568
August	21	1195	998	197	84%	16%	44	508
September	21	1256	1129	127	90%	10%	63	539
Cumulative Totals	188	11,071	9,394	1,677	85%	15%	527	4,580

EXPLANATIONS

Incoming Calls: Total member inquiries to the Hotline received during that month.

Completed Calls: Member inquiries received in that month which were handled and resolved by staff during that month.

Left Messages: Member inquiries received that month where staff left an initial message or courtesy follow-up message, but did not reach the member to resolve the inquiry.

Percentage of Incoming Calls that are Completed Calls: Proportion of Incoming Calls that were Completed Calls handled and resolved by the staff.

Percentage of Incoming Calls that are Left Messages: Proportion of Incoming Calls where staff left a message but the member did not return the call.

Key Hotline Activity Averaged by Day and Month
(through September 30, 2008)

Daily:	Incoming Calls:	59
	Completed Calls:	50
Monthly:	Incoming Calls:	1,230
	Completed Calls:	1,044

Aggregate Outgoing Calls

Current Month: 1,833

Cumulative to Date: 16,030

This figure accounts for all calls placed by staff, including: Completed Calls, Left Messages and courtesy follow-up messages. Due to "telephone tag" with members, staff may place multiple calls and leave multiple messages prior to completing a call.

Ethics Hotline
2008 Monthly and Cumulative
Individual Paralegal Call Statistics

JAN					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	222	100	122	76	0
2	241	98	143	47	0
3	379	151	228	74	0
4	508	240	268	84	0
5	227	55	172	110	0
6	39	18	21	0	30
JAN TOTALS	1,616	662	954	391	30

FEB					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	226	82	144	78	0
2	229	89	140	49	0
3	397	154	243	85	0
4	488	216	272	78	0
5	206	75	131	80	0
6	25	14	11	8	5
FEB TOTALS	1,571	630	941	378	5

MAR					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	316	125	191	111	0
2	0	0	0	0	0
3	546	243	303	94	0
4	530	229	301	94	0
5	304	101	203	131	0
6	13	8	5	0	13
MAR TOTALS	1,709	706	1,003	430	13

APR					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	355	140	215	111	22
2	12	5	7	1	0
3	457	176	281	103	1
4	663	283	380	121	0
5	374	128	246	127	0
6	16	7	9	5	0
7	55	32	23	0	55
APR TOTALS	1,932	771	1,161	468	78

MAY					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	276	95	181	112	0
2	205	97	108	18	0
3	214	77	137	53	0
4	568	244	324	101	0
5	344	124	220	101	0
6	5	1	4	0	5
7			0		
MAY TOTALS	1,612	638	974	385	5

JUNE					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	288	98	190	106	0
2	230	93	137	26	0
3	293	104	189	97	0
4	529	231	298	96	10
5	269	83	186	103	0
6	104	64	40	3	101
7			0		
JUNE TOTALS	1,713	673	1,040	431	111

Ethics Hotline
2008 Monthly and Cumulative
Individual Paralegal Call Statistics

JULY					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	151	45	106	68	0
2	419	199	220	63	4
3	322	115	207	106	0
4	559	257	302	111	0
5	339	106	233	140	0
6	254	164	90	8	243
7	26	16	10	0	26
JULY TOTALS	2,070	902	1,168	496	273

AUG					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	257	98	159	98	0
2	411	198	213	59	0
3	355	122	233	104	0
4	426	163	263	98	0
5	297	99	198	119	0
6	228	150	78	4	207
7	0	0	0	0	0
AUG TOTALS	1,974	830	1,144	482	207

SEPT					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	250	90	160	89	1
2	270	118	152	43	0
3	289	90	199	95	0
4	518	207	311	82	0
5	354	118	236	105	0
6	152	104	48	2	150
7	0	0	0	0	0
SEPT TOTALS	1,833	727	1,106	416	151

Y-T-D					
Paralegal	Total Calls	Left Msg.	Completed Calls	Return Calls	Call Backs
1	2,341	873	1,468	849	23
2	2,017	897	1,120	306	4
3	3,252	1,232	2,020	811	1
4	4,789	2,070	2,719	865	10
5	2,714	889	1,825	1,016	0
6	836	530	306	30	754
7	81	48	33	0	81
Y-T-D TOTALS	16,030	6,539	9,491	3,877	873

NOTE: The entries for paralegal 6 and 7 relfect statistics for Ethics Hotline call work performed by paralegals in training.

Professional Competence Budget Summary
Authorized vs. Actual

Year-to-Date as of September 30, 2008	
Budget (Actual)	$1,678,771
Budget (Authorized)	$1,943,463
Savings	$264,692

Monthly
as of September 30, 2008

	January	February	March	April	May	June
Budget (Actual)	$151,353	$185,468	$201,991	$183,615	$220,237	$224,069
Budget (Authorized)	$204,141	$205,110	$228,931	$205,936	$264,213	$206,232
Savings	$52,788	$19,642	$26,940	$22,321	$43,976	-$17,837

	July	August	September	October	November	December
Budget (Actual)	$179,322	$168,127	$164,589			
Budget (Authorized)	$209,436	$209,717	$209,747			
Savings	$30,114	$41,590	$45,158	$0	$0	$0

NOTE: In part, year-to-date savings are attributed to salary savings from vacant budgeted postions that are not filled or have not been approved for filling by the Executive Director.

Prepared: 11/6/2008 10:44 AM

Ethics Hotline
Customer Satisfaction Survey

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	◉
2. How satisfied are you with the information our staff provided?	○	○	○	○	◉
3. How helpful was the paralegal?	○	○	○	○	◉
4. How helpful was the receptionist?	○	○	○	○	◉
5. How satisfied are you with our system for receiving calls?	○	○	○	○	◉
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	◉
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	◉

8. Comments / Suggestions:

I think that the ethics hotline is the single most beneficial service that the State Bar gives to its members. I was admitted in California on 9 January 1969. I also took and passed the Bar Examinations in Florida, Missouri, and Illinois. I was admitted to the Texas Bar in 2002 on Application, but only after passing the Ethics Examination with a score of 143 out of 150. I regularly read about ethics issues in California, Florida and Texas Bar publications. My goal, of course, is to conduct myself in total ethical compliance. That is easier said than done, and when I have any doubts about the applicable ethical standards, my first call is to the Ethics Hotline.
Thank you for being there. Today, I was helped by Lynn Cobb. My thanks to her and to her predecessors who have taken my calls.

Name of the paralegal you spoke with (optional) Lynn Cobb

Your Name

elephc

Address

:mail

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline
Customer Satisfaction Survey

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	O	O	O	O	X
2. How satisfied are you with the information our staff provided?	O	O	O	O	X
3. How helpful was the paralegal?	O	O	O	O	X
4. How helpful was the receptionist?	O	O	O	O	X
5. How satisfied are you with our system for receiving calls?	O	O	O	O	X
6. Rate your overall satisfaction with the Calbar ethics website.	O	O	O	O	X
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	O	O	O	O	X

8. Comments / Suggestions:

Name of the paralegal you spoke with (optional) ______

Your Name ______ Telephone ______

Address ______ Email ______

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline
Customer Satisfaction Survey

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3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	◉
2. How satisfied are you with the information our staff provided?	○	○	○	○	◉
3. How helpful was the paralegal?	○	○	○	○	◉
4. How helpful was the receptionist?	○	○	○	○	◉
5. How satisfied are you with our system for receiving calls?	○	○	○	○	◉
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	◉
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	◉

8. Comments / Suggestions:

I have called the Ethics Hotline during my 20 years of practicing law about a dozen times. Each time I have received a call back within the time I was told I would be called back. Each time the authorities referenced as helpful to my question have indeed been on point and very helpful. This service is an unheralded gem provided by the Bar. Every attorney I've ever spoken to about it agrees with me.

Thank you very much.

Name of the paralegal you spoke with (optional) ____________

Your Name ____________ Telephone ____________

Address ____________ Email ____________

____

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline
Customer Satisfaction Survey

RECEIVED: 6/23/2008

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	◉
2. How satisfied are you with the information our staff provided?	○	○	○	○	◉
3. How helpful was the paralegal?	○	○	○	○	◉
4. How helpful was the receptionist?	○	○	○	○	◉
5. How satisfied are you with our system for receiving calls?	○	○	○	○	◉
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	◉
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	◉

8. Comments / Suggestions:

Thanks to Lynn for her very knowledgeable professional advice about a thorny joint representation issue. She had cases and citations at her fingertips. Very impressive.

Name of the paralegal you spoke with (optional) Lynn

Your Name ____________ Telephon ____________

Address ____________ Email ____________

____

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline Customer Satisfaction Survey

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Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	●
2. How satisfied are you with the information our staff provided?	○	○	○	○	●
3. How helpful was the paralegal?	○	○	○	○	●
4. How helpful was the receptionist?	○	○	●	○	○
5. How satisfied are you with our system for receiving calls?	○	○	○	○	●
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	●
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	●

8. Comments / Suggestions:

I thought Lynn was an attorney. She was great. I was impressed that she knew so moch off the top of her head. Really appreciated the follow-up too.

Name of the paralegal you spoke with (optional) Lynn

Your Name

Address

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

RECEIVED: 8/26/2008

Ethics Hotline
Customer Satisfaction Survey

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	⊙
2. How satisfied are you with the information our staff provided?	○	○	○	○	⊙
3. How helpful was the paralegal?	○	○	○	○	⊙
4. How helpful was the receptionist?	○	○	○	○	⊙
5. How satisfied are you with our system for receiving calls?	○	○	○	○	⊙
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	⊙
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	⊙

8. Comments / Suggestions:

I WAS VERY PLEASED AND ACTUALLY SURPRISED BY THE EFFICIENCY, PROFESSIONALISM AND CORDIALITY DEMONSTRATED OVER THREE (3) OR (4) TELEPHONE CALLS. THE INFORMATION PROVIDED TO DIRECT ME TO ANSWERS BY QUESTIONS WAS SUPERB! ALTHOUGH, I DID NOT REALIZE, LISTEN OR KNOW THAT LYNN COBB WAS A PARALEGAL, SHE, NONETHELESS, WAS AS FINE A PROFESSIONAL AS I HAVE EVER ENCOUNTERED IN THIRTY-TWO (32) YEARS OF LAW PRACTICE. IF SHE WAS LOOKING FOR A JOB DOWN HERE, I WOULD HIRE HER. THE INTAKE RECEPTIONIST, DAVID, WAS ALSO TERRIFIC! THANK YOU SO MUCH FOR YOUR ASSISTANCE IN A TIME FOR NEED.

Name of the paralegal you spoke with (optional) LYNN COBB

Your Name

Address

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

RECEIVED ON: 8/27/08

Ethics Hotline
Customer Satisfaction Survey

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	⦿	○
2. How satisfied are you with the information our staff provided?	○	○	○	⦿	○
3. How helpful was the paralegal?	○	○	○	⦿	○
4. How helpful was the receptionist?	○	○	○	⦿	○
5. How satisfied are you with our system for receiving calls?	○	○	○	⦿	○
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	⦿	○
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	⦿	○

8. Comments / Suggestions:

Name of the paralegal you spoke with (optional) Sorry, I don't recall.

Your Name ______ Telephoı ______

Address ______ Email ______

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

NOTE: This customer appears to have misconstrued the ranking system.

Ethics Hotline
Customer Satisfaction Survey

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1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	◉	○	○	○	○
2. How satisfied are you with the information our staff provided?	◉	○	○	○	○
3. How helpful was the paralegal?	◉	○	○	○	○
4. How helpful was the receptionist?	◉	○	○	○	○
5. How satisfied are you with our system for receiving calls?	○	◉	○	○	○
6. Rate your overall satisfaction with the Calbar ethics website.	◉	○	○	○	○
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	◉

8. Comments / Suggestions:

WOULD IT BE HELPFUL FOR THE ETHICS HOTLINE TO OPEN UP AN ON-LINE QUESTION SUBMISSION FROM THE ATTORNEY. THE RESPONSE COULD BE SENT BACK ONLINE, WITH AN INVITATION FOR THE ATTORNEY TO CALL BACK ONLY IF THERE ARE ADDITIONAL QUESTIONS. IT MAY REDUCE THE CURRENT WORK LOAD AND DIFFICULTY OF CONNECTING BY TELEPHONE.

Name of the paralegal you spoke with (optional) ____________________

Your Name ____________ Telephor ______

Address ____________ Email ______

____

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

AUG-27-2008 15:16 STATE BAR OF CALIFORNIA

Ethics Hotline Customer Satisfaction Survey

Thank you for taking the Customer Satisfaction Survey. Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.					X
2. How satisfied are you with the information our staff provided?					X
3. How helpful was the paralegal?					X
4. How helpful was the receptionist?				X	
5. How satisfied are you with our system for receiving calls?				X	
6. Rate your overall satisfaction with the Calbar ethics website.					X
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.					X

8. Comments / Suggestions:

Pam was able to grasp the problem immediately & provide me w/ sources of information to evaluate the situation

Name of the paralegal you spoke with (optional) Pam

Your Name ph

Address ail

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline
Customer Satisfaction Survey

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Please rate your satisfaction level with each of the following statements.
1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	⦿
2. How satisfied are you with the information our staff provided?	○	○	○	○	⦿
3. How helpful was the paralegal?	○	○	○	○	⦿
4. How helpful was the receptionist?	○	○	○	○	⦿
5. How satisfied are you with our system for receiving calls?	○	○	○	○	⦿
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	○	⦿
	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	○	⦿

8. Comments / Suggestions:

I called in Thursday with seeking opinions on an issue relating to ex parte contact with a treating dr. that extended to an attempt to influence treatment, it is an issue that is not settled in CA, the paralegal Pam, who i spoke to thursday was very helpful and provided authorities for me to check, but the issue was somewhat out of the norm and she was concerned that she may have missed something,, so she kindly referred over to Mark one of your staff attorneys. The assistance of Pam and Mark was just awesome, Mark provided a large body of authority for me to look at that was very instructional and helped my clarify and frame my issue, I also inquired as to how i could request a formal opinion on this issue as it is presently a hot topic, and he kindly showed me on the bar website where to go for the information, i have called the hotline many time during the past 7 + years i have been practicing and have always been satisfied with the assistance, this service is a valuable resource and must be maintained, thank you,

Name of the paralegal you spoke with (optional) Pam and Mark (counsel)

Your Name

Address

elephon

mail

THANK YOU!
Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

Ethics Hotline
Customer Satisfaction Survey

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1 = very dissatisfied
2 = somewhat dissatisfied
3 = neutral
4 = somewhat satisfied
5 = very satisfied

	1	2	3	4	5
1. Rate your overall satisfaction with the hotline experience.	○	○	○	○	◉
2. How satisfied are you with the information our staff provided?	○	○	○	○	◉
3. How helpful was the paralegal?	○	○	○	○	◉
4. How helpful was the receptionist?	○	○	◉	○	○
5. How satisfied are you with our system for receiving calls?	○	○	○	◉	○
6. Rate your overall satisfaction with the Calbar ethics website.	○	○	○	◉	○

	strongly disagree				strongly agree
7. I would recommend the Ethics Hotline to others.	○	○	○	◉	○

8. Comments / Suggestions:

Name of the paralegal you spoke with (optional) Ricardo-very helpful, very knowledgeable

Your Name Teleph

Address 20 Email

THANK YOU!

Fax completed survey to (415) 538-2171 or click the "Submit by Email" button

The State Bar of California

Client Trust Accounts and Bank Stability Concerns

Attorney Information

In view of the current financial crisis, lawyers have concerns about their obligations to properly maintain client funds. The State Bar Ethics Hotline provides research assistance on professional responsibility issues and the following links are offered to assist lawyers in addressing these concerns.

- ***Rule of Professional Conduct 4-100 "Preserving Identity of Funds and Property of a Client"***

  All funds held for the benefit of clients must be maintained in accordance with Rule 4-100. This rule requires that client funds be placed in a fiduciary account that is properly labeled as a trust account and that other funds are not commingled with client funds.

  This rule also requires appropriate client notice, record-keeping, and disbursement procedures. Notwithstanding the current financial crisis, lawyers should continue to follow all of the requirements of Rule 4-100.

  The FDIC provides general information about fiduciary accounts, including information on FDIC insurance for such accounts. The availability of FDIC insurance may not be determinative of whether a particular deposit fully complies with a lawyer's fiduciary duties. The State Bar's *Handbook on Client Trust Accounting for California Attorneys* (2008 Online Edition, pages 12-13 and 16-17) includes basic information on this issue.

- ***IOLTA Requirements***

  The Legal Services Trust Fund Program receives interest on attorney-client trust accounts, and distributes those funds to legal aid offices throughout California.

  Under Business & Professions Code Section 6210 et. seq., lawyers who handle small amounts of money for their clients, or money that is held for a short period of time, must participate in the program by depositing these funds into an Interest on Lawyers' Trust Account (IOLTA).

  There are also State Bar rules for IOLTA accounts. Like Rule 4-100, the IOLTA requirements, where applicable, must be followed despite the current financial crisis.

  Eligible institutions that may hold IOLTA funds are identified on a continually updated list on the State Bar's Web site. While consulting this list is an important starting point for researching an institution for depositing IOLTA funds, the State Bar does not make any determination regarding the relative stability of the financial institutions on the list.

- ***Liability Issues***

  Although Rule 4-100 and the IOLTA requirements establish State Bar disciplinary and regulatory standards, they do not resolve concerns about a lawyer's liability for client funds in the event of a bank failure.

  While this is a legal and risk management issue beyond the scope of the State Bar's regulatory function, for research guidance the State Bar Ethics Hotline is citing a non-

California decision where malpractice liability was not found when a lawyer deposited funds in a bank that was subsequently closed and placed into FDIC receivership.

In *Bazinet v. Kluge* (N.Y.A.D. 1 Dept., 2005) 788 N.Y.S.2d 77 [14 A.D.3d 324], the New York Appellate Division found that the lawyer did not know that the bank was in danger of closing and that the proximate cause of the loss was "the bank's unforeseen demise." As suggested by this case, foreseeability is a key element.

Accordingly, lawyers should exercise diligence in ascertaining bank stability. The FDIC's Web site has links to several private bank rating services; however, the list is not to be construed as an endorsement or confirmation of the information provided by any of the listed companies.

Read the ***Client Trust Accounts and Bank Stability Concerns*** *FAQs*.

For more information about the Rules of Professional Conduct, call the Ethics Hotline at 1-800-2ETHICS or 415-538-2150.

For more information about IOLTA, call the Legal Services Trust Fund Program at 415-538-2046 or 415-538-2227.

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The State Bar of California

Client Trust Accounts and Bank Stability Concerns

FAQs

1) **Q: How does FDIC insurance protect client trust funds?**

A: Selecting a bank that is regulated by a federal or state agency and that carries deposit insurance from an agency of the federal government is an important consideration. As your client's fiduciary, you are responsible for protecting your client funds.

Based on emergency legislation, effective October 3, 2008 through December 31, 2009, FDIC insurance has been raised from $100,000 to $250,000 for certain funds on deposit. In the case of your IOLTA account, provided the fiduciary nature of the account is disclosed in the account title and you keep required records in good faith and in the regular course of business, each of your client's funds may be separately insured up to $250,000.

However, the per-client limit may include all of the funds that your client has on deposit at that bank. For example, if you are holding $150,000 for a client at a certain bank, and the client has another $150,000 on deposit at the same bank, depending on the nature of the accounts, only $250,000 of the $300,000 the client is holding in the bank is covered. The FDIC's Web site has additional information about FDIC insurance.

In addition, even if all your clients' funds are covered by insurance, by the time the FDIC pays your client his or her money, your client's interests might be adversely impacted.

For example, the delay may result in a missed a business opportunity. Similarly, the FDIC coverage will not help you if your bank goes under and you need to get copies of your client trust bank account records.

2) Q: Isn't FDIC insurance an express requirement for IOLTA deposits?

A: Effective January 1, 2008, Business and Professions Code Section 6213 was amended to define an IOLTA account as an account or investment product that is:

1) an interest-bearing checking account;

2) an investment sweep product that is a daily (overnight) financial institution repurchase agreement or an open-end money-market fund; or,

3) any other investment product authorized by the California Supreme Court.

Consistent with that legislation, the California Supreme Court rescinded its 1982 order that previously required IOLTA accounts be held in an institution that has its deposits insured by the federal government.

The legislation provides for strictly defined conservative safe investment sweep products, which are sometimes held on the investment side of the bank and therefore are not necessarily covered by the FDIC.

The Court's new order is silent on federal insurance for deposits, but the State Bar is working on regulatory requirements with respect to financial institutions either through rule or revised legislation. Monitor the IOLTA pages on the State Bar's Web site for ongoing developments.

3) **Q: Given the limits on FDIC insurance, should I attempt to divide-up deposits among several banks?**

A: The State Bar's Ethics Hotline is not aware of any authority in California mandating this approach as an absolute disciplinary standard. Prudence and good client communication should be exercised in electing to take this approach.

Rule 3-500 of the Rules of Professional Conduct requires a lawyer to keep a client reasonably informed about "significant developments" and the approach of dividing deposits may be something to consider with a particular client given that client's specific situation.

However, depending on the number of banks and clients involved, this approach could lead to accounting and record-keeping challenges.

Bear in mind that the goal is to maintain client funds in a financially stable institution and that FDIC insurance for a deposit is one factor to consider but it is not determinative. *(See the above discussion of investment sweep products for IOLTA deposits.)*

The FDIC has a Web page with links to several private bank rating services; however, the list is not to be construed as an endorsement or confirmation of the information provided by any of the listed companies.

In addition, you should realize that civil liability is a separate concern from State Bar disciplinary or regulatory standards. You may want to contact your professional liability insurance carrier for guidance on the pros and cons of attempting to divide-up trust fund deposits.

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