

10.09 Disposition of IOLTA funds whose owners cannot be located or cannot be identified

(a) When an executor, administrator, personal representative, administrator c.t.a, curator of the estate, administrator de bonis, or ancillary administrator, or a lawyer, law firm, or trustee appointed under the Rules of Lawyer Disciplinary Procedure holds funds in an IOLTA account for a client or third party, and cannot locate that client or third party after four or more months of reasonable efforts to do so, and the amount of the funds is \$500 or less, the funds shall be remitted directly to the West Virginia State Bar. If the amount of the funds is more than \$500, the executor, administrator, personal representative, administrator c.t.a., curator of the estate, administrator de bonis, or ancillary administrator, or lawyer, law firm, or trustee appointed under the Rules of Lawyer Disciplinary Procedure shall petition the Supreme Court of Appeals for leave to pay the funds to the West Virginia State Bar, together with a statement, under oath, of the efforts made to locate the owner whether a client or a third party.

(b) When an executor, administrator, personal representative, administrator c.t.a, curator of the estate, administrator de bonis, or ancillary administrator, or a lawyer, law firm, or trustee appointed under the Rules of Lawyer Disciplinary Procedure cannot identify the owner or owners of funds in an IOLTA account, whether client or third party, after four or more months of reasonable efforts to do so, and the amount of the funds is \$500 or less, the funds shall be remitted directly to the West Virginia State Bar. If the amount of the funds is more than \$500, the executor, administrator, personal representative, administrator c.t.a., curator of the estate, administrator de bonis, or ancillary administrator, or lawyer, law firm, or trustee appointed under the Rules of Lawyer Disciplinary Procedure shall petition the Supreme Court of Appeals for leave to pay the funds to the West Virginia State Bar, together with a statement, under oath, of the efforts made to identify and locate the owner or owners.

(c) The executor, administrator, personal representative, administrator c.t.a, curator of the estate, administrator de bonis, or ancillary administrator, or lawyer, law firm, or trustee appointed under the Rules of Lawyer Disciplinary Procedure shall have a continuing responsibility for returning the funds to the owner or owners. If the owner of such funds remitted to the West Virginia State Bar is identified and located within two years after the funds have been remitted to the West Virginia State Bar, then the executor, administrator, personal representative, administrator c.t.a., curator of the estate, administrator de bonis, or ancillary administrator, or lawyer, law firm, or trustee shall notify the West Virginia State Bar IOLTA Advisory Committee; and request, pursuant to procedures adopted by the West Virginia State Bar IOLTA Advisory Committee for that purpose, a refund of the amounts paid. The executor, administrator, personal representative, administrator c.t.a., curator of the estate, administrator de bonis, or ancillary administrator, or lawyer, law firm, or trustee shall be responsible for proper distribution of any funds that are refunded.

[The Court adopted the amendments to Rule 10.09, by order entered October 3, 2025]