

THE LAW SOCIETY OF SINGAPORE

PRACTICE DIRECTION 3.3.5

[Formerly PDR 1989, misc section, query 3]

QUERY: DEPOSIT INTEREST RULES – APPLICATION OF RULE 2 TO CLIENT MONEYS

Question: We would like to seek clarification of rule 2 of the Legal Profession (Deposit Interest) Rules (Cap 161, R 5, 2010 Rev Ed) ('DIR'). Is rule 2 to be applied to the sum of all balances belonging to the same client, when each balance is in a separate client current account as each balance pertains to a different legal matter?

For example, a solicitor (as defined by the subsidiary legislation) is handling four different legal matters for the same client and client's money relating to each matter is recorded separately in four different client current accounts. Individual balances in each of these four accounts are below \$5,000 but in total, the sum of all the balances exceed \$5,000 and was held in a current account for more than four months. Does this constitute a breach of rule 2?

Answer: Rule 2 of the DIR provides as follows:

"(1) Subject to rule 4, a solicitor who receives any money exceeding the threshold amount for or on account of any particular client to hold in the applicable circumstances —

- (a) must —
 - (i) deposit the money separately in a bank or an approved finance company by way of fixed deposit repayable on demand in compliance with paragraph (3); and
 - (ii) account to the client for all interest earned on the money deposited;or
- (b) must pay to the client out of the solicitor's own money the amount of the interest which would have accrued for the client's benefit if the money had been deposited in accordance with sub-paragraph (a)(i).

...

(4) In this rule —

"applicable circumstances", for a solicitor who receives money for or on account of a client, means circumstances in which —

- (a) the solicitor knows, from the instructions to the solicitor when receiving the sum of money, that the sum will not, within 4 months after the receipt of the sum, be withdrawn in whole or reduced to a sum below the threshold amount (if paragraph (1) applies) [...] for or on account of the client; and
- (b) the sum of money is not so withdrawn or reduced within that 4 months;

...

"threshold amount", for money received by a solicitor for or on account of a particular client, means —

- (a) \$5,000 (or the equivalent in foreign currency on the date of receipt) if received from that client before 1 December 2015[.]

The reply to the question in the first paragraph would be that the solicitor should apply rule 2(1) read with rule 2(4) of the DIR, to each sum of money received for or on account of a client,

be it in respect of one matter or several matters, at the time of receipt of such sum. The solicitor should, therefore, deal with the sum in accordance with rule 2(1)(a) or 2(1)(b) or not at all, as is applicable.

A sum, for instance if less than \$5,000 if received from the client before 1 December 2015, is not to be considered in aggregation with any other sum received for or on account of that same client at a subsequent time, for the same or other matters.

The reply to the question in the second paragraph would be that the solicitor in the example given is not in breach of rule 2 of the DIR.

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THE COUNCIL OF THE LAW SOCIETY OF SINGAPORE