

Form: External Examiner's Report – When a law practice ceases legal practice or authorisation to receive trust

Rule 68 Legal Profession Uniform General Rules 2015 (Vic)

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|-----------------------------------|--------------------------|------------------------|
| The period covered by this report | From: ____ / ____ / ____ | To: ____ / ____ / ____ |
| Name of law practice: _____ | | Entity No: E _____ |
| Address: _____ _____ | | |

Scope

Rule 68 of the *Legal Profession Uniform General Rules 2015 (Vic)* ('the Uniform Rules') provides that a law practice that has held a trust account that ceases to be authorised to receive trust money or ceases to engage in legal practice must arrange for its external examiner to examine and report on its trust records. The law practice must give the Board a copy of each report undertaken by its external examiner in accordance with rule 68 within 60 days after the end of the period to which the report relates. This form is published in accordance with rule 67, which provides that if the Board publishes a standard form for an external examiner's report, each external examiner must report in accordance with that form.

Opinion

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|---|-------------------------------|-----------------------------------|---|-------------------------------|-----------------------------------|---|---------------------------|-------------------------------|-----------------------------------|---|---------------------------------------|-------------------------------|-----------------------------------|---|--|-------------------------------|-----------------------------------|---|---------------|-------------------------------|-----------------------------------|---|
| <p>1: I have conducted an examination of the trust records of the law practice based on appropriate examination and sample techniques for the year ending: _____</p> | | | | | | | | | | | | | | | | | | | | | | |
| <p>2: All necessary trust records were produced to me as requested for the purpose of the external examination. Subject to any exceptions noted in item 10 of this report, I am of the opinion that the records were kept in a way that enables them to be conveniently externally examined.</p> | | | | | | | | | | | | | | | | | | | | | | |
| <p>3: After reviewing the breaches noted in Schedule 1 of this report and based on the results of my examination, I am of the opinion that the following trust records have been properly kept in compliance with the provisions of the Uniform Law and the Uniform Rules.</p> <table> <tr> <td>General Trust Accounts</td> <td><input type="checkbox"/> have</td> <td><input type="checkbox"/> have not</td> <td><input type="checkbox"/> not applicable</td> </tr> <tr> <td>Controlled Money Accounts</td> <td><input type="checkbox"/> have</td> <td><input type="checkbox"/> have not</td> <td><input type="checkbox"/> not applicable</td> </tr> <tr> <td>Trust money subject to specific power</td> <td><input type="checkbox"/> have</td> <td><input type="checkbox"/> have not</td> <td><input type="checkbox"/> not applicable</td> </tr> <tr> <td>Register of Investments of Trust Money</td> <td><input type="checkbox"/> have</td> <td><input type="checkbox"/> have not</td> <td><input type="checkbox"/> not applicable</td> </tr> <tr> <td>Transit Money</td> <td><input type="checkbox"/> have</td> <td><input type="checkbox"/> have not</td> <td><input type="checkbox"/> not applicable</td> </tr> </table> <p>If you answered 'have not' for any of the above, please provide details at item 9 of this report.</p> | | | General Trust Accounts | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | Controlled Money Accounts | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | Trust money subject to specific power | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | Register of Investments of Trust Money | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | Transit Money | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable |
| General Trust Accounts | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | | | | | | | | | | | | | | | | | | | |
| Controlled Money Accounts | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | | | | | | | | | | | | | | | | | | | |
| Trust money subject to specific power | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | | | | | | | | | | | | | | | | | | | |
| Register of Investments of Trust Money | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | | | | | | | | | | | | | | | | | | | |
| Transit Money | <input type="checkbox"/> have | <input type="checkbox"/> have not | <input type="checkbox"/> not applicable | | | | | | | | | | | | | | | | | | | |
| <p>4: The examination of the trust account(s) of the law practice showed, at any time during the period, that there were:</p> <p><input type="checkbox"/> no deficiencies <input type="checkbox"/> deficiencies</p> <p>Where there were deficiencies, I am of the opinion that the deficiencies were restored promptly, except as detailed below:</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> <i>Additional details have been attached</i></p> | | | | | | | | | | | | | | | | | | | | | | |

5: At the end of the examination period there were:

no unrestored deficiencies unrestored deficiencies

If restored after the end of the examination period, provide details of the date and amount restored below:

Additional details have been attached

I have confirmed that all trust bank accounts have been closed

No Yes

6: I have confirmed that the law practice had a principal holding an Australian practising certificate authorising the receipt of trust money during the examination period.

7: I acknowledge that the Victorian Legal Services Board and/or the Law Institute of Victoria Ltd will rely on the information contained in this external examiner's report. I disclaim any assumption of responsibility for any reliance on this external examiner's report to any person other than the Victorian Legal Services Board or Law Institute of Victoria Ltd, or for any purpose other than that for which it was prepared.

8: I have successfully completed the course of education approved by the Legal Services Council required under rule 65(2) of the Uniform Rules.

I am a person designated or within a class designated under rule 65 of the Uniform Rules.

9: Final Comments

In my opinion the following information, which has not been included in any of the schedules, needs to be drawn to the attention of the Victorian Legal Services Board and the Law Institute of Victoria Ltd.

Additional details have been attached

Please note: All questions and schedules must be completed for marked not applicable. Failure to do so will result in the report being returned.

Signed: _____ Date: ____ / ____ / ____

[External Examiner]

| | | |
|--|--|--|
| External Examiner name: _____ | Name of accounting firm: _____ | Board External Examiner ID Number: _____ |
| Address for service (street address): _____ | | |
| Email: _____ | Tel: _____ | Fax: _____ |
| Postal address: _____ | | |

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Schedule 1: Breaches of legislation

Has there been a breach of legislation?

No

Yes

Breaches of legislation recorded in this schedule **do not** necessarily indicate that the trust records have not been maintained in accordance with Uniform Law and the Uniform Rules.

| | |
|--------------------------------|---|
| Legislation: _____ _____ | Description and extent of breach: _____ _____ |
| Legislation: _____ _____ | Description and extent of breach: _____ _____ |
| Legislation: _____ _____ | Description and extent of breach: _____ _____ |
| Legislation: _____ _____ | Description and extent of breach: _____ _____ |
| Legislation: _____ _____ | Description and extent of breach: _____ _____ |

Additional details have been attached

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Schedule 2: Review of risk factors

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|--|
| 1. Non trust money has been deposited in the general trust account(s) and intermixed with trust money. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 2. There are estates where the legal practitioner is the sole executor. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 3. The law practice has changed its general trust bank account during the examination period. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 4. The law practice has changed its staff that maintain the trust accounting records during the examination period. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 5. The law practice has changed its accounting software during the examination period. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 6. The monthly trust reconciliations are reviewed by: <input type="checkbox"/> Sole practitioner <input type="checkbox"/> Partner <input type="checkbox"/> Director <input type="checkbox"/> CLS Supervisor <input type="checkbox"/> Not reviewed |
| 7. The trust transfer journal has not been 'signed off' by an authorised principal or authorised associate(s). <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 8. There are dormant balances that require action. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 9. There are unrepresented cheques outstanding for 3 months, which have the payee as a barrister's clerk or the State Revenue Office or the Land Titles Office. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 10. Cheques drawn on the office account have been reversed because there were insufficient funds. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 11. The law practice receives money in payment of legal fees by way of direct deposit into the office account. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 12. A Register of Powers and Estates has been sighted. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 13. A Register of Interests has been updated during the examination period. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 14. Residual balances were debited from the trust ledgers and banked into the office account. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 15. Certificate(s) of Title and Probate Deeds are held but are not recorded on the Deeds Register. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| 16. A management letter has been forwarded to the law practice in relation to this examination. <input type="checkbox"/> No <input type="checkbox"/> Yes (If 'Yes', please attach a copy of the letter). |

Form: Approved External Examiner's Report – When a law practice ceases legal practice or authorisation to receive trust

Rule 68 – Legal Profession Uniform General Rules 2015 (Vic)

Schedule 3: Mandatory reporting

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| At the 31 March there was an unrestored deficiency as disclosed by a debit balance in a trust ledger. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| The trust account reconciliation at 31 March disclosed that the amount in the trust ledgers, cash books and total of ledger balances did not agree. <input type="checkbox"/> No <input type="checkbox"/> Yes |
| The law practice uses accounting software that does not comply with the Uniform Law and Uniform Rules. <input type="checkbox"/> No <input type="checkbox"/> Quickbooks <input type="checkbox"/> MYOB <input type="checkbox"/> Other: _ |

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|---|
| At the time of the examination visit, the trust records had not been written up for one month or more <input type="checkbox"/> No <input type="checkbox"/> Yes |
| At the time of the examination visit, the trust reconciliations had not been prepared for two months. <input type="checkbox"/> No <input type="checkbox"/> Yes |

If any 'Yes' responses are made in this schedule, the External Examiner shall forthwith send a copy of this External Examiner's Report directly to:

Regulatory Compliance Programs
Victorian Legal Services Board & Commissioner
GPO Box 492
Melbourne VIC 3001

OR

Email: edp@lsbc.vic.gov.au