

Faulk, Camilla

From: Bowden, George [George.Bowden@co.snohomish.wa.us]
Sent: Monday, March 24, 2008 4:17 PM
To: Faulk, Camilla
Subject: RPC 1.5 comment

While no longer in private practice, I often charged flat fees for criminal defense work and had written fee agreements which clearly identified those fees as nonrefundable retainers. The dilemma I faced was not being discharged by a client but the question of "What if I get hit by a bus?" The client would have to engage another lawyer to do the work. So that my partners or my estate would not have to deal with requests for refunds after the retainer had been deposited into my business account and spent, I used my trust account and paid myself only when the work was done. That probably improperly co-mingled "earned" fees with unearned client deposits, but I felt it preferable to have some of "my" money in my clients' trust account, particularly since the reverse is often grounds for serious discipline. So, the proposed rule offers some clarity. I think it's an improvement, as long as lawyers are willing to keep time records.