

APPOINTMENT OF CUSTODIAN TO PROTECT CLIENTS' INTERESTS

(a) Custodians Allowed. The Chair, on motion by disciplinary counsel or any other interested person, may appoint one or more lawyers or Association counsel as a custodian to act as counsel for the limited purpose of protecting clients' interests. A custodian may be appointed whenever a lawyer (1) has been transferred to disability inactive status, suspended, or disbarred, and fails to carry out the obligations of Title 14 or fails to protect the clients' interests, or (2) disappears, dies, abandons practice, or is otherwise incapable of meeting the lawyer's obligations to clients. A custodian should not be appointed if a partner, personal representative, or other responsible person appears to be properly protecting the clients' interests. The Chair may enter orders to carry out the provisions and purposes of this rule.

(b) Duties. The custodian takes possession of the necessary files and records and takes action as seems indicated to protect the clients' interests or required by the Chair's orders or these rules. Such action may include but is not limited to assuming control of trust accounts or other financial affairs. Any bank or other person honoring the authority of the custodian is exonerated from any resulting liability. In determining ownership of funds in the trust account, including by subrogation or indemnification, the custodian should act as a reasonably prudent lawyer maintaining a client trust account. The custodian may rely on a certification of ownership issued by a person who conducts audits for the Association under rule 15.1. If the client trust account does not contain sufficient funds to meet known client balances, the custodian may disburse funds on a pro rata basis.

(c) Discharge. On motion by disciplinary counsel or any interested person, the Chair may discharge the custodian from further duties. The Chair may also order destruction of files and records as appropriate.

(d) Fees and Costs. Payment of any fees and costs incurred by the Association under this rule may be a condition of reinstatement of a disbarred or suspended lawyer or a lawyer transferred to disability inactive status, ordered as restitution in a disciplinary proceeding for failure to comply with rule 14.1, or claimed against the estate of a deceased or adjudicated incapacitated lawyer.

(e) Records. The Bar Association maintains record of the custodianship permanently. The custodian maintains files and papers obtained as custodian until otherwise ordered by the Chair.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]