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May 23, 1985

Chief Justice Joseph A. Boyd, Jr.
Supreme Court Building
Tallahassee, Florida 32301

Dear Chief Justice Boyd:

On behalf of the Real Property Probate and Trust Law Section, I am writing this letter to comment on Rule 11.02(4)(f) of the Integration Rule of the Florida Bar as promulgated by order of the Supreme Court on April 18, 1985.

Since the rule originally proposed to the Court was principally drafted by a Committee of the Real Property Probate and Trust Law Section, we are pleased that the Court has adopted a rule which is consistent with the rule proposed by the Section.

The only concern of the Real Property Probate and Trust Law Section is with the introductory paragraph of the rule as promulgated. After several readings of the introductory paragraph, we are not sure of its meaning. The introductory paragraph seems to indicate that a lawyer may not disburse funds held for a client unless those funds are "collected funds." The paragraph then provides a very clear definition of "collected funds." Further, the paragraph seems to indicate that if a lawyer disburses on uncollected funds, he is using, endangering, or encumbering the monies held in trust for a client for purposes of carrying out the business of another client. The rule clearly requires that such a disbursement is not permitted without the permission of the owner of such funds given after full disclosure of the circumstances. After these ground rules are clearly laid, the introductory paragraph then indicates that the lawyer may disburse funds from his trust account in reliance on the deposits identified in the rule. Frankly, we believe that the introductory paragraph leaves an ambiguity. It is possible to interpret the introductory paragraph to say that a lawyer may only disburse on the deposits listed in the rule after receiving permission of the owner of funds in his trust account given after full disclosure of the circumstances. We do not believe that this is the intent of the rule and feel that the introductory paragraph should be clarified.

On behalf of the Real Property Probate and Trust Law Section I would like to thank the Court for its concern over this matter. We view this subject to be extremely important to practicing lawyers in the State of Florida.

Very truly yours.

A handwritten signature in cursive script, appearing to read "J. Richard Harris".

J. Richard Harris

JRH/pe