

NOTICES

STATEWIDE GRIEVANCE COMMITTEE

Rules of Procedure

Notice is hereby given of the following new rule of the Statewide Grievance Committee Rules of Procedure, adopted in accordance with Section 2-33(c)(2) of the Connecticut Practice Book, to be effective July 1, 2007.

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Statewide Bar Counsel

(NEW) Rule 13 – Random Inspections and Audits of Clients’ Funds Accounts

A. Pursuant to Practice Book § 2-27(e), the Statewide Grievance Committee or its counsel shall conduct random inspections and audits of clients’ funds accounts as defined in Practice Book §§ 2-27(d) and 2-28(b) and registered with the Statewide Grievance Committee in accordance with Practice Book § 2-27(d).

B. For purposes of Practice Book § 2-27(e) and this Rule, “inspection and audit” is defined as the inspection of a randomly selected clients’ funds account to ensure compliance with ethical rules, including, but not limited to, Practice Book § 2-27 and the Rules of Professional Conduct.

C. The manner in which the Statewide Grievance Committee or its counsel shall randomly select, inspect and audit such accounts is by the following:

1. Commencing July 1, 2007, the Statewide Bar Counsel shall randomly select for inspection and audit, with such frequency as is determined by counsel, clients’ funds accounts registered with the Statewide Grievance Committee in accordance with Practice Book § 2-27(d).

2. The Statewide Bar Counsel shall send, by certified mail, written notice of the inspection and audit to the attorney(s) who has registered the selected clients’ funds account.

3. The random inspection and audit shall cover, at a minimum, the previous six months from the date of the notice of the inspection and audit and shall involve the inspection of the financial records for the selected clients’ funds account that are required to be maintained by the attorney(s) in accordance with Practice Book § 2-27(b), including, but not limited to:

- a. a receipt and disbursement journal identifying all deposits in and withdrawals from the account and showing the running account balance;
- b. a separate accounting page or column for each client or third person for whom funds are held showing (A) all receipts and disbursements and (B) a running account balance;
- c. at least quarterly a written reconciliation of trust account journals, client ledgers and bank statements;
- d. a list identifying all trust accounts as defined in § 2-28 (b); and
- e. all checkbooks, bank statements, and canceled or voided checks.

4. The attorney(s) whose clients’ funds account is the subject of the random inspection and audit will have the following options:

- a. to comply with the inspection and audit by providing a copy of the financial records set forth in Practice Book § 2-27(b) and § C(3) of this Rule and any other

financial records maintained by the attorney(s) for the selected account by United States mail service, in person, or by some other delivery service to the Statewide Bar Counsel's Office by the date provided in the written notice; or

b. to comply with the inspection and audit by undergoing an on-site inspection and audit by the Statewide Bar Counsel's Office of the financial records set forth in Practice Book § 2-27(b) and § C(3) of this Rule and any other records maintained by the attorney(s) for the selected account on the date set forth in the written notice. The Statewide Bar Counsel's Office may complete the inspection and audit of the selected account by removing copies of any records produced at an on-site inspection to the Statewide Bar Counsel's Office.

5. Any copies produced pursuant to this Rule shall be at the expense of the attorney(s) whose clients' funds account is the subject of the inspection and audit.

E. The attorney(s) whose account is selected for inspection and audit shall fully cooperate with the inspection and audit. "Fully cooperate" as that term is used in Practice Book § 2-27(e) means, among other things, providing the Statewide Bar Counsel's Office with all the documents referred to in this Rule and any other records and information as may be necessary for the Statewide Bar Counsel's Office to complete its inspection and audit. If the attorney(s) whose clients' fund account is the subject of the inspection and audit fails to fully cooperate, the Statewide Bar Counsel's Office shall, in its discretion, refer the matter to the Disciplinary Counsel's Office for an interim suspension proceeding pursuant to Practice Book § 2-42.

F. If the inspection and audit does not disclose an apparent violation of Practice Book § 2-27 or the Rules of Professional Conduct, the Statewide Bar Counsel shall:

1. notify the attorney(s) that the inspection and audit did not disclose a violation of Practice Book § 2-27 or the Rules of Professional Conduct; and

2. remove the selected clients' funds account number from the random inspection and audit selection process for a period of one year from the date the file is closed.

G. If the inspection and audit discloses an apparent violation of Practice Book § 2-27 or the Rules of Professional Conduct, the Statewide Bar Counsel's Office shall, in its discretion:

1. negotiate with the attorney(s) with the goal of having the attorney(s) bring the subject clients' funds account into compliance with Practice Book § 2-27 and the Rules of Professional Conduct, subject to the attorney(s) agreeing to reasonable, periodic subsequent inspections and audits of the clients' funds account by the Statewide Bar Counsel's Office to ensure compliance; or

2. forward the file to a grievance panel for further investigation and the possible filing of a grievance complaint; or

3. forward the file to Disciplinary Counsel to initiate a presentment complaint.

H. In any matter referred by the Statewide Bar Counsel's Office to a grievance panel or its counsel for investigation under this Rule, said grievance panel shall complete its investigation within the same time frame as set forth for the investigation of grievance complaints under Practice Book § 2-32(i).

I. If a grievance panel to which the result of a random inspection and audit of a selected clients' funds account has been forwarded for investigation and the possible filing of a grievance complaint determines that the initiation of a grievance complaint is not warranted, it shall file its written determination, along with an explanation of its decision, with the Statewide Grievance Committee.

J. If a grievance panel to which the result of a random inspection and audit of a selected clients' funds account has been forwarded for investigation and the possible filing of a grievance complaint initiates a grievance complaint, the grievance panel shall file its complaint with the Statewide Grievance Committee and shall forward a copy of the complaint to the Disciplinary Counsel for a determination as to whether

interim suspension should be sought pursuant to Practice Book § 2-42. The grievance complaint shall be referred to a separate grievance panel for a determination of probable cause.

K. Prior to any public hearing arising from a random inspection and audit of a clients' funds account, the Statewide Grievance Committee or its counsel shall give written notice by certified mail to any client or third person whose identity may be publicly disclosed through the disclosure of records obtained or produced in accordance with the random audit and inspection. A copy of any such written notice shall be provided to the Disciplinary Counsel. Thereafter, the identified client or third person shall have thirty days from the date of the written notice to seek a court order restricting publication of any such records disclosing confidential information. The client or third person who applies for such a court order shall serve, by certified mail, a copy of the application on the Statewide Grievance Committee through its counsel and on the Disciplinary Counsel.
