


State of Connecticut
Department of Administrative Services
State Marshal Commission
Das.ct.gov/statemarshal

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Chairperson

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DATE: October 28, 2014
TO: State Marshals
FROM:  Douglas Rinaldi, Administrative Manager
SUBJECT: New Audit Policy

ADMINISTRATIVE BULLETIN
14-15

The State Marshal Commission, after receiving input from the State Treasurer's Office, voted October 15, 2014 to amend the State Marshal Commission's Audit Policy. This new policy incorporates into one document the changes that have been made to the Audit Policy over the years.

A copy of the amended policy is enclosed. It is effective immediately. The new policy replaces the policy issued on October 19, 2006, as amended by Administrative Bulletin 09-09.

Please review the new policy. It is very similar to the old policy however note that there is a new annual reporting requirement for state marshals who maintain Client Fund/Trust Accounts. Each state marshal who maintains a Client Fund/Trust Account must submit to the State Marshal Commission an annual account reconciliation complete through December 31st of the previous year within 45 days after the close of the year. The first such reconciliation under this audit policy will be due by February 16, 2015. Note that our office will make every effort to assist you as you complete the initial submission under this new requirement. Please do not hesitate to call with questions or concerns about the policy or the new reporting requirement. We will send further information about the reporting requirement as the date grows nearer.

Thank you for your attention to this matter.

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State Marshal Commission

Client Fund/Trust Account and Audit Policy

Purpose

State marshals, as public officers, are empowered to collect funds under court and statutory authority. These collection actions generally involve financial institution executions, wage executions, property sales and tax warrants. State marshals who engage in execution work must maintain a Client Fund/Trust Account. The State Marshal Commission has adopted this policy to establish uniform procedures for state marshals in the management of their trust accounts that is consistent with laws, regulations, procedures and the professional standards of the Commission.

State marshals are required to follow this Client Fund/Trust Account and Audit Policy to perform execution work and to safeguard, document and process any sums they collect under statutory or court authority. All state marshals who perform execution work under the terms of state statutes and this policy are subject to the audit and review of their records and accounts under Conn. Gen. Stat. §§ 6-38e and 2-90a.

Policies and Procedures for the administration of a Client Fund/Trust Account

General Requirements:

- Be a state marshal in good standing with the State Marshal Commission.
- Notify the State Marshal Commission of the intent to perform collection work prior to engaging in the work.
 - Completing a Client Fund/Trust Account Intent form satisfies this general requirement.
- Provide the name of the financial institution and Client Fund/Trust Account number to the State Marshal Commission.
 - Completing a Client Fund/Trust Account Intent form satisfies this general requirement.
- Client Fund/Trust Account:
 - The Client Fund/Trust Account must be a specific noninterest bearing account opened under only the state marshal's name and title to handle the collected sums. No other names or signatories are allowed on the account. The checks and account must include fiduciary language such as "trustee", "client fund" or "garnishment". Each state marshal that performs executions should only have one Client Fund/Trust Account. With good cause shown, more than one account may be permitted.

- Notify the State Marshal Commission of any opening or closing of or any changes to your Client Fund/Trust Account. You must provide the Commission with the name and address of the bank along with the name and number of the account. Additionally, you must notify the State Marshal Commission of any overdrafts to the Client Fund/Trust Account. For overdrafts, please inform the State Marshal Commission in writing with the date and amount of the overdraft and the reason for the occurrence. You must notify the State Marshal Commission of any changes to or overdrafts of your account within five business days.
- A state marshal may keep up to \$5,000 of earned execution fees in the trustee account for bank fees, insufficient fund checks and other incidental errors. The \$5,000 maximum amount must be calculated at the end of each month.
- You may not deposit or commingle non-client funds in the account, with the exception of authorized marshal fees that are subject to the \$5,000 maximum.
 - If a sum of \$1,000 or more is collected and immediately disbursed as required, then the fees associated with that collection would be deducted upon the immediate disbursement to stay below the \$5,000 maximum.
- State marshals must complete a periodic questionnaire from the State Marshal Commission to inform the Commission if and how they are engaged in collection work.

Administration within the Client Fund/Trust Account:

Receipts, Deposits & Disbursements:

It is the responsibility of the state marshal to disburse trust funds within 30 days of receipt or upon collection of \$1,000.00 whichever occurs first or in accordance with the agreed upon delivery time between the state marshal and the person for whom he is collecting money. For the purpose of this policy section the term "receipt" will be defined as collected/received deposited and cleared. To properly execute this responsibility it is necessary to record the dates the trust funds are received, deposited and disbursed.

Receipts:

The state marshal must maintain a record of date of receipt of client's funds supported by timely deposit into the trust bank account. Documentation shall include:

- Date check/cash received (collected and cleared).
- Date check/cash deposited.
- Source from whom the funds were received.
- Name of the individual/entity from whom the check was collected.
- Amount of the check.
- Authorized party's name and due date of payment.

Upon receipt, checks should be immediately endorsed for deposit only.

Deposits:

All funds, by cash, check or otherwise collected by the state marshal on an execution or other statutory authority must be deposited into the Client Fund/Trust Account. Deposits into the trust account must be on a timely basis. The ideal situation would be daily deposits. Daily deposits assist in preventing the threat of a lost or stolen check. At a minimum, deposits shall be made not less than on a weekly basis for checks or collections over \$100.00 and not less than on a monthly basis for checks or collections under \$100.00. Checks that are not deposited daily should be kept in a secure place until deposited. Since the Client Fund/Trust Account acts as a clearing house for execution dollars, timely deposits provide time for the check to clear.

Each deposit into the trust account requires documentation of where the funds came from. The source documentation shall consist of any one of the following:

- The bank deposit slip, with source notation.
- Copies of the checks received.
- Computer listing.
- Source documentation from whom the funds were received, which can include, but is not limited, to a log detailing the source of the deposit(s).

Disbursements:

Disbursements from the trust account are only permitted for: payment to the authorized party, the state marshal's expenses and fees related to the execution. Payments to the authorized party shall be disbursed within 30 calendar days from the date of receipt of the money, or upon the collection of \$1,000.00, whichever first occurs or in accordance with the agreed upon delivery time between the state marshal and the person for whom he/she is collecting money. For the purpose of this policy section the term "receipt" will be defined as collected/received, deposited and cleared. This will alleviate problems with bank errors, checks returned for insufficient funds and other similar problems so the marshal will not be in the position of having to distribute funds the marshal never actually acquired within their Client Fund/Trust Account. The state marshal's fee is to be paid when the money is actually collected and paid to the authorized party, or upon collection, even if the client wishes later distribution of his or her funds. Except for an amount not to exceed \$5,000.00, marshal's fees are not to accumulate in the trustee account in excess of one month from the time of receipt or in accordance with the agreed upon delivery time between the state marshal and the person for whom he or she is collecting money. In very exceptional circumstances, a check may be cashed rather than deposited, as long as proper tracing records of the transaction are kept and disbursement to the authorized party is immediate, or in accordance with the agreed upon delivery time between the authorized party and the state marshal.

To timely disburse funds, records must be maintained documenting amounts received by the date of receipt and from whom collected with a tickler date to be disbursed. Documentation shall include the following:

- Date of receipt.
- From whom collected.
- Amount collected.
- Date due for disbursement.
- Agreed upon delivery time from the person for whom the state marshal is collecting money if funds are not to be distributed within 30 days, or immediately if \$1,000.00 or more is involved. The presumption will be that the statutory time frames apply. If your distribution timeframe differs from the statutory requirement, to assist you in rebutting the presumption and to protect yourself, the Commission recommends that you put your agreement with your clients in writing.
- Date of disbursement.
- Check number of disbursement
- Amount of disbursement.
- The state marshal's fee should be the total amounts received multiplied by the appropriate state marshal fee percentage.

You must maintain cash disbursement documentation for each disbursement from the trustee's account. All checks are to be written in a sequential order and paid to a specific payee. All voided checks should be defaced with the signature portion of the check removed and the defaced check retained and accounted for in numerical sequence. You may not write checks to cash from the Client Fund/Trust Account.

Prior to the payment for the state marshal's expenses, source documentation should indicate the following: 1) for which execution the expense was incurred, 2) a description of the expense, and 3) the amount of the expense with applicable receipts. Upon payment, all documentation should be annotated as "paid" with the check number, the amount, and the date of payment. This disbursement should correlate with the date the authorized party received the funds.

Book and Bank Reconciliation:

The state marshal is responsible for maintaining up-to-date and complete records of all receipts and disbursements from the client fund account. The state marshals' fees collected, but not yet disbursed, in addition to all other receipts shall be reconciled to the book balance of the Client Fund/Trust Account. At least monthly, the state marshal should prepare a record of funds received but not yet disbursed to support the book balance of the account.

To account for cash receipts and cash disbursements from the Client Fund/Trust Account, the account should be reconciled monthly. Note that under this policy a reconciliation must be done at least on a quarterly basis. You should prepare a reconciliation starting from the bank statement balance and annotating individual deposits in transits with dates and individual outstanding checks to arrive at the book balance.

Record Retention and Unclaimed Property:

All supporting documentation used in the collection and disbursement of Client Fund/Trust Accounts must be retained for a minimum of 3 years after the state marshal's business year end or for any additional period requested by the state marshal Commission. If the state marshal's records are being contested, an inquiry should be made to the State Marshal Commission for guidance on the retention of the records prior to destroying any.

Through the regular reconciliation process of the Client Fund/Trust Account, identification of disbursed but not cashed checks from the client fund account will occur and could remain unclaimed. The State of Connecticut Office of the State Treasurer has a division dedicated to Unclaimed Property. There are requirements for identifying and declaring unclaimed property and its transfer to the Office of the State Treasurer. The following link is to the State Treasurer's division of Unclaimed Property and is provided as a reference material if you have unclaimed funds within your Client Fund/Trust Account that requires action within this category.
http://www.ott.ct.gov/unclaimed_overview.html

Reporting Requirement:

State marshals who engage in Client Fund/Trust Account activity are required to submit to the State Marshal Commission Office their trust account reconciliation as of December 31st of each year. The reconciliation should be submitted within 45 days after the close of the year, and include a listing of the owners of the monies being held and the total marshal fees remaining in the account, reconciled to the account balance. A copy of the December 31st bank statement must be part of this submittal package. The reconciliation summary reports will be reviewed for compliance and may lead to follow up audit activity if required.

| Bank Statement Balance as of 12/31 | Client Fund/Trust Account Checkbook Balance as of 12/31 | Owners of Monies received, deposited and not yet disbursed | Marshal Fees held in account |
|------------------------------------|---|--|------------------------------|
| 100.00 | 100.00 | 25.00 Jane Doe 25.00 John Smith 25.00 ABC Law Firm | 25.00 outline origin of fees |
| <u>100.00</u> | <u>100.00</u> | <u>75.00</u> | <u>25.00</u> |

Please note your bank statement balance does not need to reconcile exactly to the book balance of your account. For example, these balances may differ due to checkbook activity that is in transit, e.g. disbursed checks that have not cleared your bank account.