



BEST PRACTICES: SETTING UP CHECKS AND BALANCES FOR LAW FIRMS

BY KENNETH E. WINSLOW

In today's business environment, in order to limit exposure to fraud and defalcation risk from within the firm and third parties outside the Firm, law firms must institute sufficient oversight of financial operations, along with checks and balances. These best practices are essential to a well-managed operation.

Below is a best practice checklist to assist you in reviewing your Firm's own checks and balances:

- Check signing
- Electronic payments
- Bank credit agreements
- Bank statements
- Accounts Payable and Vendor Transactions; Policies and Procedures
- Vendor Changes
- Credit Card Accounts
- Payroll; paychecks/direct deposits; periodic reports; payroll tax payments; payroll service and employee leasing companies
- Attorney trust accounts

Banking Related Matters

Check Signing

With regard to check signing controls, all disbursement requests in the form of check or electronic remittance, must be accompanied by an original invoice or requisition, together with support, for the review and approval for the expenditure. No check is to be prepared in advance. No blank checks are to be signed, without exception. The Firm must limit and/or restrict the use of manual handwritten checks. The signed checks must be mailed by someone other than the preparer. Specific signer responsibilities must be determined based the type of expenditure and dollar amount of the check. Certain checks may require more than a single signature. Firms must limit and control the use of signature stamps.

Electronic payments

For electronic payment processing, a designated computer should be used to access accounts. A segregated account with limited funding should be considered to process the payments and activity must be monitored on a daily basis to ensure payments have been transmitted and accepted.

Bank Credit Agreements

For companies that borrow and repay under bank credit line agreements, all borrowing and repayment requests must be made

by designated signers and approvers. All transaction processing must include a disclosure of the current debt balance, and all transaction processing must be acknowledged by a bank officer via email or phone.

Bank statements

Oversight of bank activity must occur more often than at the end of the month upon receipt of the bank statement. Designated signers/approvers must be provided separate electronic access to the bank account to allow for independent review and oversight of bank activity throughout the month. Paper statements must be delivered to a responsible signer for review and subsequent delivery to staff responsible for reconciliation and maintenance of the accounting records.

Accounts Payable and Vendors Transactions

Policies and Procedures

The Firm must develop written policies and control procedures and provide sufficient oversight and training in support of its policies. The vendor database should be reviewed on a periodic basis for duplicate vendors, addresses, and inactive vendors. All duplicate vendors and addresses must be investigated, corrected and/or removed. Old vendors that have history to be maintained must be marked as inactive so that no additional postings can be recorded in the vendor record. When approving invoices, designate different approvers depending on expenditure type (e.g., office supply, information technology). Periodically, request bids from other vendors to check the pricing and product quality and/or service.

Vendor Changes

Restrict access to add or change vendors in the system. Request documentation and approval for the changes and additions, such as correspondence on letterhead, business card, email address, website, and indicate any firm relation.

Credit Card Accounts

For credit card vendors, review the name, address, and account numbers. Restrict credit card vendors to Firm credit card accounts *only*. Assign one person as approver for all credit card purchases. Require an invoice or purchase request form for all credit card charges.

Payroll Processing

Firms must secure paper and electronic payroll records and require written authorization for all changes from new hires,

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terminations, and changes such as salary, bonus, and related employee information. Direct deposit authorizations must be in writing and include only employees or recipients with a company email. Terminated employees must be de-activated.

Periodic Reports, Payroll Tax Payments, and Employee Leasing Companies

Periodically, registers must be matched against an employee payroll roster containing base/average pay information. Annual payroll census data should be matched against expected payroll for fluctuations that may warrant further investigation.

Notification From Government Agencies

With regard to payroll service bureau tax filing and payment responsibilities, Firms must be included on all notifications from government agencies. Any power of attorney authorizations must provide for copies to be sent directly to the Firm. All notices and assessments from government agencies must be forwarded to the payroll service bureau for follow up and response. A written acknowledgement of the response and a subsequent resolution must be obtained from the government agency.

Attorney Trust Accounts

Despite knowledge of the law, required procedures, and the possibility of severe penalties including disbarment, a significant number of attorneys commit ethics violations every year. The Supreme Court of New Jersey's Office of Attorney Ethics Requirements under **RPC 1.15 and 1:21-6** outlines a series of mandatory practices to ensure the proper handling of Attorney Trust Accounts on the part of the fiduciary.

Reconciliations, Check Signing, Monitoring, Approvals, and Misappropriation

Firms must perform monthly reconciliations using the specified 3-Way Format which includes: (1) Book activity, (2) Reconciliation to Bank statement, and (3) Listing of Balances by client.

Other Requirements

Under the State's requirements all remaining client trust balances must be refunded, stale, dated checks must be researched and cleared, and unclaimed funds must be transferred to the State after making a sufficient effort to identify and locate the client.

By being proactive and instituting these checks and balances your Firm's internal operations will not only run smoother, but your exposure to fraud and defalcation risk will be greatly minimized from within and outside the Firm.

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