



**COLORADO SUPREME COURT
Office of Attorney Regulation Counsel**

Trust Account Manual

**Use of Credit Cards for Payments by Clients of Advanced Retainers,
Flat Fees or Earned Fees**

Lawyers in Colorado may accept payment by credit card; however, there are various problems that arise in doing so. The specific agreement that a lawyer has with his or her bank may affect the lawyer's ethical obligations.

Payment of Advanced Fee by Credit Card

When a lawyer accepts payment by credit card for advanced fees, those fees must go into the trust account. Some banks will not permit this arrangement. In the event that a bank does not do so, then the lawyer must take immediate steps to see that the funds are transferred to the trust account from the account in which the bank deposits them.

Furthermore, banks will usually charge the lawyer a percentage of the credit card amount as a fee. For instance, on a \$1,000 charge, the bank may charge the lawyer \$40. Generally, such a charge is considered overhead to the lawyer and is not chargeable to the client. (See C.R.S. §5-2-212).

Payment of Flat Fee by Credit Card

If a client pays a flat fee by credit card for work to be done in the future, then all of that payment must be placed in the lawyer's trust account. Because a flat fee for work in the future is equivalent to a payment of an advanced fee, the issues discussed immediately above apply. (Some banks may not allow a lawyer or any vendor to use a credit card for services to be rendered in the future.)

Payment of Earned Fees by Credit Card

If a lawyer accepts payment of an earned fee by credit card, then that payment must be deposited in the lawyer's professional or office account. If the credit card agreement that the lawyer has with the bank requires deposits into the lawyer's trust account, then the lawyer needs to

withdraw the credit card payment for earned fees from the trust account as soon as possible and no later than the next billing cycle, presumably within 30 days.

Bank Card Agreements With Lawyers

Some banks require that the lawyer sign a merchant agreement that authorizes the bank to reverse a transaction if the “customer” or client objects to the charge. A reversal like this can have serious ethical implications. If the lawyer has already withdrawn funds from the trust account believing that they are earned, a bank reversal from the trust account can result in another client’s money being taken. The lawyer who has the bank deposit charges to the trust account must be extremely careful of a reversal. If a reversal occurs, the lawyer in this situation must replace the funds in the trust account immediately so that no other client funds are at risk.