

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-126**  
Issued: September 1975

***This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.***

**Question:** A law firm maintains an escrow account in which funds belonging to clients and others are deposited and from which funds belonging to clients and others are disbursed. There are many transactions in and out of this account. May the firm invest part of the balance in federally insured deposits and use the interest to help pay the expense of the accounting for the escrow account?

**Answer:** No.

**OPINION**

The firm proposes to invest the excess cash in a time certificate. Cash overdrafts on the escrow account may result from temporary unavailability of escrow cash. The firm's bank will honor such overdrafts and charge them to the firm's master note secured by assignment of the time certificate. Interest on the certificate would be paid to the firm. The firm would pay the interest on the aforementioned overdrafts.

The money in the escrow account does not belong to the several persons having an interest in the account. The law firm's contention is that since the interest would be used to account for the escrow funds, the persons having interest in the escrow account would indeed have the benefit of the interest. The law firm has the obligation to account for the escrow funds. It is clear to us that it is the law firm, and not the owners of the escrow funds, who would benefit from the interest.

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***Note to Reader***

*This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.*