

## ESCROW BANKING

### DUTIES OF AN ATTORNEY ESCROW AGENT

- Commingling funds is prohibited
- Must maintain separate accounts
- Notification made to third parties
- Proper record-keeping required
- Payments to payees not to “cash”
- Finding missing clients or turnover funds to clerk of a court
- Violation of duties may lead to disbarment

### CONSIDERATIONS IN OPENING AN ESCROW ACCOUNT

- Name of Account
- Tax ID number
- IOLTA or IOTA vs. Fiduciary Account
- Interest vs. Non-interest Bearing
- Depositing Bank concerns
  - Located in local state
  - Consolidated bank statements
  - Interest calculated for each account
  - Different products available
  - Well capitalized
- ◆ IOLTA - Interest on Lawyer Trust Accounts or IOTA - Interest on Trust Accounts
  - funds that are nominal in amount or expected to be held for a short period of time
  - Sound judgment of the lawyer
- ◆ IOLTA v non-IOLTA
  - amount of interest funds would earn
  - cost of establishing/administering account
  - capability of financial institution to calculate/pay interest

