

Regulating Trust Funds: Can We Do a Better Job of Preventing Theft?

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This presentation will discuss whether—and perhaps how—state bar regulators can better prevent theft of client and third-party funds by lawyers and law firm employees.

Part 1 will address the broad problem beyond the recent cases that have brought national media attention to the issue (Tom Girardi and Alex Murdaugh) and how state bar responses have been reactionary and defensive, focusing on minimizing the problem rather than addressing it objectively. The Murdaugh and Girardi cases provide examples of the various ways in which lawyers steal without detection from clients, colleagues, regulators, judges, and banks.

Part 2 will examine some common existing client protections (e.g., trust accounting rules, mandatory malpractice insurance, and bar funds for client protection), the extent to which they are effective, and the extent to which they fail to protect against theft.

Part 3 will explore additional efforts that some states are making in the hope of shoring up protections against theft and discuss the promise that some of these efforts may hold if state bar regulators more broadly are willing to implement the