

Rule 236

COMPLIANCE EXAMINATION BY DISCIPLINARY ADMINISTRATOR

- (a) **Authority.** The disciplinary administrator may conduct a compliance examination of any trust account or other fiduciary account held by an attorney or the attorney's law firm.
- (b) **Disciplinary Administrator's Duties.** In conducting a compliance examination, the disciplinary administrator has the following duties.
 - (1) The disciplinary administrator must determine whether the attorney's or law firm's records and accounts are being maintained in accordance with applicable rules.
 - (2) The disciplinary administrator must employ sampling techniques to examine selected accounts, unless a discrepancy is found that indicates a need for a more detailed examination. Selected accounts may include the following:
 - (A) money, securities, and other trust assets held by an attorney or law firm;
 - (B) a safe deposit box or similar device;
 - (C) deposit records;
 - (D) canceled checks and their equivalent; and
 - (E) any other record that pertains to a trust account transaction affecting an attorney's or a law firm's practice of law.
- (c) **Cooperation.** The attorney or law firm must cooperate in a compliance examination by providing records and answering questions. Failure to cooperate in the examination is a violation of Rule 210 and Kansas Rule of Professional Conduct 8.1.
- (d) **Investigative Subpoena.** The disciplinary administrator may issue an investigative subpoena to compel the production of pertinent books, papers, documents, records, and electronically stored data and information that relate to the account. The subpoena must state that it was issued under this rule.
- (e) **Report.** At the conclusion of the compliance examination, the disciplinary administrator must prepare a written report containing the disciplinary administrator's findings. The disciplinary administrator must serve a copy of the report on the attorney or law firm.
- (f) **Deficiencies.** If a compliance examination report specifies a deficiency in the attorney's or law firm's records or procedures, the following provisions apply.
 - (1) No later than 14 days after service of the report, the attorney or law firm must serve the disciplinary administrator with evidence that the alleged deficiency either is incorrect or has been corrected.

- (2) If corrective action requires additional time, the attorney or law firm must apply for an extension of time to correct the deficiency.
- (g) **Confidential.** Except as otherwise provided in subsection (h) and Rule 237, all records produced for a compliance examination are confidential.
- (h) **Disclosure of Records.** The disciplinary administrator may disclose a record produced for a compliance examination as follows:
 - (1) to a court if disclosure is necessary to complete the examination;
 - (2) in a board proceeding; or
 - (3) as directed by the Supreme Court.

[History: New rule adopted effective January 1, 2021.]