

4/22/2020

Clerk, U.S. District Court
District of Montana
Missoula DivisionIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANAIN RE: Administration of the Court's
Non-Appropriated Fund.

STANDING ORDER No. BMM-2

I. Introduction

In accordance with the *Guide to Judiciary Policy*, Volume 4, Chapter 6, § 670.60, the court establishes the following standards and procedures for the administration and operation of the District of Montana's non-appropriated funds held and collected by the court for the benefit of the bench and the bar. These funds collectively are referred to herein as "non-appropriated funds" or "the Fund." This Standing Order supersedes Standing Orders PGH-4A and DLC-18, and those orders are accordingly withdrawn.

II. Sources of the Fund

The Fund shall be derived from the following sources:

- A. Fees paid by attorneys admitted to the Bar of this Court under the conditions prescribed in Local Rule 83.1;
- B. Fees paid by attorneys not admitted to the bar of this court who are admitted under the conditions prescribed in Local Rule 83.1(d); and
- C. All income derived from the sources described in Paragraphs A and B above.

III. Administration of the Fund

Advisory Committee

An Advisory Committee shall be appointed by the court to authorize expenditures from the Fund in accordance with Judicial Conference Policy and this Standing Order, and to advise the Fund's custodian on matters relating to the administration of the Fund. A majority vote of the Advisory Committee is necessary to authorize an expenditure.

The Advisory Committee shall consist of:

1. the chief United States district judge;
2. a United States magistrate judge;
3. the chief United States bankruptcy judge;
4. the clerk of court, who shall act as secretary to the committee; and
5. a lawyer representative who is a member in good standing of the bar of this court.

Fund Custodian

The clerk of court is appointed custodian of the Fund. In the event of the absence, retirement or resignation of the clerk, the chief deputy clerk of administration, or such other person as the chief district judge designates, shall serve as the custodian.

The custodian's responsibilities and duties include:

1. Receive, safeguard, deposit, disburse and account for all funds, as prescribed in this Plan and in pertinent laws.
2. Establish an accounting system approved by the court.
3. Promptly pay reoccurring expenses approved by the advisory committee.
4. Invest funds in federally insured interest-bearing accounts, government securities or money market funds invested in government obligations in accordance with this Plan.
5. Exercise independent approval authority for expenditures from the Fund in amounts not to exceed those authorized by the Advisory Committee, provided such expenditures are otherwise in compliance with Judicial Conference Policy and this Standing Order.
6. Ensure that a financial statement and operating report is prepared quarterly.
7. Provide an accounting of the Fund at least annually and ensure that operating and expenditure reports are prepared monthly. The clerk shall distribute a copy to the Advisory Committee, thereby certifying that the statement and report accurately present the financial condition of the Fund. The report shall state the following:
 - a. Beginning balance of assets;

- b. Revenue during reporting period: collections, investment;
 - c. Disbursements during reporting period, listed by major classifications;
 - d. Ending balance of assets (bank balances and undeposited collections);
 - e. Obligations, accounts payable or known future expenditures; and
 - f. Available balance.
8. Act as Secretary to the advisory committee and keep records and minutes of committee meetings.
9. Perform such other duties as the Advisory Committee may direct.

IV. Purposes and Uses of the Fund

In general, monies deposited into the Fund must be used for purposes which inure to the benefit of members of the bench and bar of this court in the administration of justice. Any judge, advisory committee member, staff member or member of the bar of this court may make recommendations for expenditures from the Fund on application to the custodian/trustee of the Fund. Examples of proper use of the Fund include, but are not limited to:

- A. Purchase of periodicals and publications for the court library for which appropriated funds are not available;

- B. Surety bond for the custodian of the Fund. (The bond may cover only monies in the Fund);
- C. Fees for services rendered by outside auditors in auditing the Fund;
- D. Reimbursement of appointed pro bono counsel for reasonable expenses;
- E. Expenses for the training of court personnel for which appropriated funds are not available, including attendance fees for conferences and seminars but not including travel costs;
- F. Collection and preservation of records of historical value to the court;
- G. Development of the history of the court;
- H. Enhancing the level of advocacy in the court;
- I. Attorney admission proceedings (including expenses of admissions, committees, and admissions ceremonies);
- J. Costs associated with hosting the Montana Judicial Institute;
- K. Attorney discipline proceedings (including expenses of investigating counsel for disciplinary enforcement, travel expenses and witness fees in disciplinary proceedings);
- L. Furnishings, equipment, and amenities for lawyer lounges that may not be purchased or funded from appropriations. Examples include: Furniture, refrigerators, telephone and Internet service, and bottled water; or

M. Any other purposes for which appropriated funds may not legally be used that will benefit the bench and the bar in the administration of justice.

V. Limitations on Use of the Fund

The following limitations apply to the use of the Fund:

- A. The Fund shall not be used to pay for goods or services for which appropriations may legally be used, even if the appropriated funds are exhausted or otherwise not available.
- B. Notwithstanding this restriction, the Fund may be used to purchase books, periodicals and other resource materials for the court's libraries for which appropriated funds may also be used.
- C. The Fund shall not be used to supplement the salary of any judges or court employees, or provide a personal benefit to any judge or court employee, or their family members. As a limited exception, judges or court employees, or their family members, may receive a de minimus personal benefit incidental to a proper expenditure from the Fund, e.g., meals, refreshments or hospitality items provided by the Fund.
- D. The Fund must not be used to pay for official or personal travel by a judge or court employee or by his or her family member, unless it is used to pay for local transportation of a judge or court employee to attend bench/bar events.

E. The Advisory Committee shall avoid unreasonable accumulation of the Fund.

VI. Audits and Inspections

Routine Audits

The financial records, disbursements, receipts and earning statements shall be audited by the Audit Division of the AO as a part of periodic reviews of the business of the court; and the clerk as part of the court's annual internal audit. The court may appoint an outside auditor or disinterested inspector (who may be a government employee) to conduct such additional audits as the court determines may be necessary or appropriate. The custodian shall provide the written results of such audits to the court and make them available upon request to members of the bar of the court. The auditor may receive reasonable compensation from the Fund if the auditor is not a government employee acting in an official capacity. Any costs of such an audit shall be paid out of the Fund.

Appointment of a Successor Custodian

Upon appointment of a successor custodian, the outgoing custodian shall prepare and sign the following statements in conjunction with an exit audit or inspection conducted by an auditor or disinterested inspector designated by the court:

A. A statement of assets and liabilities; and

B. A Statement of the balance in any Fund accounts as of the date of transfer to the successor custodian.

The successor custodian shall execute a receipt for all funds after being satisfied as to the accuracy of the statements provided by the outgoing custodian. Acceptance may be conditioned upon audit and verification when the circumstances warrant.

Dissolution of the Fund

The court may dissolve the Fund or any portion thereof, whenever considered appropriate to do so. A final audit should be performed by an outside auditor and a written accounting rendered to the court, before dissolution of the Fund. The custodian shall ensure that all outstanding obligations are liquidated before dissolution of the Fund, including any expenses resulting from the required final audit. The court may direct the disposition of remaining assets from the Fund in ways which will fulfill the purposes of the Fund as set forth in this plan.

The clerk shall immediately inform all judicial officers of this district of the entry of this order.

DATED this 22nd day of April, 2020.



Brian Morris, Chief Judge
United States District Court