



How to Vanquish Your Untrustworthy Foes

Strategies for clearing trust balances

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Nasty facts about stale balances

1. Delayed retirements & tremendous expense. Extra months or even over a year of fees. Trust account must be closed to change category
2. Succession obstacle
3. Lawyers seldom start soon enough.
4. Clients don't always cash cheques
5. ...or respond to calls
6. ...or stay in one place for long
7. Risk
8. Hard for someone else to deal with



Step One = Set Aside Time

Monday	Tuesday	Wednesday	Thursday	Friday
2	3	4	5	6
			CPD Conference	
9	10	11	12	13
11:00 Trust Balances (45 mins)		Remembrance Day		
16	17	18	19	20
23	24	25	26	27
30				
11:00 Trust Balances (30 mins)				

Step 2 Browse Resources

- LSS Guide to Clearing Trust Balances
(attached, to be posted soon)
- Trust Assurance's info on nsbs.org
 - [FAQs old balances](#)
 - [Index for trust account info](#)
- Call us 902 422 1491; we're here to support you



Step 3 Review Trust Listings

- Print it off and mark on it, create a spreadsheet, do whatever works for you
- Identify every stale balance (older than it should be)
- If you're hoping to retire or leave practice, apply this process to all balances
- Categorize each balance (use flow chart)

A: Divide trust listings into categories

**B: Money is returnable
(if can find client)**

C: Outstanding work or condition

D1: Research client contact info.
If possible, obtain phone, text, Messenger or email for quick response.
Record steps.

E: You can solve

F: You cannot resolve within reasonable time

G1: Seek confirmation from client of address and that they will cash cheque ASAP

U: If cannot find client, document steps in affidavit

R: For releases

P: For everything but releases

G2: Once client confirms address, send cheque

G3: If client fails to confirm address, talk to NSBS about U

R1: check POL in case already released

P1: Make a plan, follow the plan

H: Client won't cash. Document your actions, wait until stale, then UTFA.

R2: follow Mortgage Protocol, use s.60 if needed, don't wait.

Possible solutions:
J: Get another lawyer to assume file
K: Pay into court - the threat is often enough

Cashed!

UTFA
Undistributed Trust Funds Application

Released

Resolved

Step 4 Make and execute a plan for each

- Make a plan for each balance
 - Use the flow chart and flow to conclusions
 - All balances that fit one category might use the same “plan”)
- Delegate to lawyers and staff where appropriate
- Keep control of timing
- Review progress regularly



Strategies for returning client \$

- Don't just send a cheque expecting it to be cashed. You risk 6 month delay.
- Do contact client first, confirm address, confirm they will cash cheque.
- Communicate using their method
- Courier or dropping by their house might save you time & money

Checklist for finding client (record date(s) and result(s) for each)

√	Suggested order	Date(s)	Result(s)
	Phone last known number		
	Email last known email		
	POL: check tax address		
	Letter (no cheque at this stage) to last known address and any different address where tax bills sent on POL. Ask for call or email within X days.		
	Canada 411 espec. for phone		
	Facebook with a view to using Messenger		
	LinkedIn with a view to messaging		
	Google search		
	Obituaries – online		
	Obituaries – local paper		
	Send courier, ask to deliver in person not drop, or go to their house		

What if I can't connect with client?

Undistributed Trust Funds Application [\(UTFA\)](#)

- We (Elaine Cumming) make your court application
- You provide affidavit(s) and \$25

Still have the money?

- If you've kept good records of your reasonable efforts to find them, talk to NSBS about UTFA

Oops we sent a cheque and they never cashed it?

- Make the UTFA application after cheque is stale dated.



Overdue Releases

Choice often comes down to:

1. Escalate, using s. 60 to get it done
[Mortgage Protocol](#)
2. Kick yourself for not doing it sooner



Only 6 places the \$ can go

- Back to the client
- To fulfill the purpose you held it for
- To the Public Trustee via the next Undistributed Trust Funds Application
- If it is appropriate to bill, to your general (operating) account
- Pay it into court: interpleader
- Convince a colleague to take on the file for you

Prevent common problems by prior agreement

Put in writing what happens if a lawyer leaves

- Trust balances associated with their files
- Their closed files
- Foundation documents for their property files

see p.9 [of Succession Planning Guide](#)

Who is best placed to solve issues?

