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Construction Trust Fund Claims – Get the Accounting Right

Accounting is now key when asserting and defending claims in respect of breaches of trust fund accounting, with the recent changes to the Construction Act. Claims now focus squarely on the accounting for funds disbursed and received.

The Construction Act now clearly states that comingling trust funds is no longer in and of itself a breach of the trust provisions of the Construction Act.¹ This clarifies, and is a departure from, some case law, such as Molloy J.'s interpretation of the Construction Lien Act in *St. Mary's Cement v. Construc Ltd. et al.*²

The focus is now squarely on accounting for:

- the funds disbursed to pay for services and materials supplied to the improvement, versus;
- the funds received on account of the improvement

This accounting for funds disbursed and received requires careful attention, both in terms of:

- a) marshalling the supporting documentation, and
- b) identifying which disbursements can legitimately be deducted.

Get My Help as an Expert in Accounting for
Funds Disbursed and Funds Received

¹ Construction Act, RSO 1990, c C.30, see section 8.1(2)

² CanLII 12114 (ON SC)