

AGREEMENT TO NOTIFY OFFICE OF LAWYER REGULATION OF OVERDRAFTS ON LAWYER TRUST ACCOUNTS AND FIDUCIARY ACCOUNTS

Whereas, lawyer trust accounts and lawyer fiduciary accounts, as defined in SCR 20:1.15(a), shall only be maintained in financial institutions that agree to notify the Office of Lawyer Regulation (“OLR”) of the presentation of a properly payable instrument or electronic transaction against a lawyer trust account or fiduciary account containing insufficient funds;

Now, therefore, the undersigned lawyer or law firm and the undersigned financial institution agree as follows:

- a) The undersigned lawyer or law firm acknowledges that, pursuant to SCR 20:1.15(b) and SCR 20:1.15(k), it is required to hold in trust, separate from the lawyer’s own property, that property of clients and third persons that is in the lawyer’s possession in connection with a representation or when acting in a fiduciary capacity. *The undersigned lawyer or law firm further represents that the account(s) identified below, or attached hereto, by title(s) and account number(s) is/are account(s) subject to the overdraft notification requirements of SCR 20:1.15(h).* The undersigned lawyer or law firm further acknowledges that no lawyer trust account(s) shall be maintained in any institution if the institution does not agree to provide the overdraft report required by this Agreement and SCR 20:1.15(h)(1).
- b) The undersigned financial institution agrees to report to OLR any properly payable instrument or electronic transaction that is presented against or made from the lawyer trust and/or fiduciary account(s) identified below, or attached hereto, whenever the account(s) contain(s) insufficient funds to pay such instrument or electronic transaction, regardless of whether or not the instrument or electronic transaction is honored. Such report shall be in the format described in SCR 20:1.15(h)(3), and shall be made to OLR at the address below, simultaneously with the customary overdraft notice to the depositor or investor.
- c) The undersigned lawyer or law firm expressly consents to the below-named financial institution providing such notice to OLR as a condition of receiving a license to practice law in the State of Wisconsin. The undersigned lawyer or law firm also agrees to pay for the financial institution’s reasonable costs of producing the reports and records required under this Agreement.
- d) Neither this Agreement, nor SCR 20:1.15(h), creates any claims against the financial institution or its officers, directors, employees and agents for failure to provide a trust account overdraft report, a fiduciary account overdraft report, or for complying with SCR 20:1.15(h) or this Agreement.
- e) This Agreement shall be binding on the successors or assigns of the financial institution that is identified below.
- f) If the law firm changes its name, any successor firm using the trust/fiduciary account(s) that is/are identified below, or attached hereto, shall be bound by the terms of this Agreement, in light of the requirements specified in **Paragraph a)**, above.

Name of Lawyer or Law Firm

Name of Financial Institution

Street Address/P.O. Box

Street Address of Branch

City, State, Zip Code

City, State, Zip Code

Telephone Number

Telephone Number

Signature - Managing Lawyer

Signature - Representative of Financial Institution

Name - Managing Lawyer (Print or Type)

Name - Financial Institution Representative (Print or Type)

Dated: _____

Dated: _____

Contact Person at Law Firm

Account Name

Name of Former Law Firm

Account Number

- FORMER FIRM IS DEFUNCT
 LIST OF ADDITIONAL ACCOUNTS IS ATTACHED

ACCOUNT TYPE:
 IOLTA Individual Client Fiduciary

**OFFICE OF LAWYER REGULATION – TRUST ACCOUNT PROGRAM
110 EAST MAIN STREET, SUITE 315, MADISON, WI 53703-3383
TELEPHONE: 877-315-6941 (OPTION 2) ♦ FAX: 608-267-1959
EMAIL: OLR.TRUSTACCOUNT@WICOURTS.GOV**

**PAPERCLIP (DO NOT STAPLE) TO THE AGREEMENT FILED WITH
OLR A VOIDED, PRE-PRINTED CHECK FOR EACH IOLTA OR A PRE-
PRINTED BANK RECORD FOR EACH IOLTA IN WHICH NO CHECKS
WILL BE USED. SEE INSTRUCTIONS.**

INSTRUCTIONS

- ◆ **Name/Address/Telephone Number of Lawyer/Law Firm:** Insert the full name of the lawyer/law firm, along with the lawyer/law firm's street or P.O. Box address and telephone number.
- ◆ **Name/Address/Telephone Number of Financial Institution:** Insert the full name of the financial institution, along with the street address and telephone number of the branch at which the lawyer/law firm conducts most of its trust account banking. **Do not use a P.O. Box address.**
- ◆ **Signatures/Dates:** A lawyer must sign and date the Agreement on behalf of the law firm. The lawyer's name must be printed below the signature. The lawyer/law firm is responsible for obtaining the signature of a representative of the financial institution. The representative's name must be printed beneath his/her signature, along with the date.



Your financial institution is not responsible for completing or for filing this Agreement with OLR. Consequently, **DO NOT MAIL** this Agreement to your financial institution with the expectation that it will be filed with OLR. The lawyer/law firm must file this Agreement directly with OLR.

- ◆ **Law Firm Contact Person:** Insert the name of a person at the law firm who can address general questions about the trust or fiduciary account(s). The contact person could be a bookkeeper, office manager, firm administrator or a lawyer in the firm.
- ◆ **Former Law Firm:** If the lawyer/law firm filed an Overdraft Notification Agreement with OLR under a different name, please identify the name of the former firm. If the former firm is no longer operating, please check the box indicating that the "**Former Firm is Defunct.**"
- ◆ **Account Name/Number:** Insert the name of the trust or fiduciary account as it appears on the monthly statement and/or the account's checks. Insert the account number immediately beneath the account name. **Trust account titles must include "Trust Account" or "Client Account" or similar words.**

NOTE:

If this Agreement is intended to cover more than one trust or fiduciary account, a separate list of the accounts, account numbers and account types must be attached to the Agreement. If such a list is attached, please check the box in the lower left corner of the form indicating that a "**List of Additional Accounts is Attached.**"

- ◆ **Account Type:** Please identify the account as: 1) an "**IOLTA**" [SCR 20:1.15(a)(8)]; 2) a trust account for an "**Individual Client**" or matter [SCR 20:1.15(c)(2)]; or 3) a "**Fiduciary**" account [SCR 20:1.15(a)(3) and (4)].
- ◆ **Copying and Distribution:** Make two (2) copies of the fully completed, fully executed Agreement. Provide the **original** Agreement to the financial institution. Forward a copy to OLR* at the address identified in the lower left corner of the Agreement, and keep the second copy with the law firm's trust/fiduciary account records.

* If the account is an **IOLTA** in which checks will be used, you **must paperclip** (*Do not staple*) a **voided, pre-printed check for the account** (*not a starter check*) to the copy filed with OLR. If no checks will be used, you **must paperclip** (*Do not staple*) a **bank statement, deposit slip, signature card, or other pre-printed bank record showing the account title** to the copy filed with OLR. *See, Proper Format for Trust Account Checks* for important information.



DO NOT ATTACH CHECKS for **FIDUCIARY ACCOUNTS** or for **INDIVIDUAL CLIENT TRUST ACCOUNTS** to this Agreement.

FILING REQUIREMENTS:

SCR 20:1.15(h) requires an **Overdraft Notification Agreement** **must** be filed with OLR and your financial institution whenever you open a new draft trust account or draft fiduciary account, **which includes** accounts in which only electronic transactions will be used, because electronic transactions, like checks, can be dishonored.

Filing an Overdraft Notification Agreement with OLR is **NOT** an annual requirement. The annual requirement relates to trust account certifications and acknowledgements on dues statements [SCR 20:1.15(i)].

PROPER IDENTIFICATION OF TRUST ACCOUNTS

SCR 20:1.15(b)(2) requires a trust account to be identified as a “**Client Account**,” a “**Trust Account**,” or with “words of similar import.” The rule states that the account must be so identified on **all account records**, including signature cards, monthly statements, checks, and deposit slips. The rule further specifies that an acronym, such as “IOLTA,” “IOTA,” or “LTAB,” without further elaboration, does not clearly designate the account as a client account or trust account.

The following account titles **COMPLY** with the requirements of SCR 20:1.15(b)(2) for trust accounts:

- ◆ Law Office of John Jones – Trust Account
- ◆ Law Office of John Jones – Client Account
- ◆ Law Office of John Jones – IOLTA Trust Account
- ◆ Law Office of John Jones – WISTAF Trust Account



IMPROPER IDENTIFICATION OF TRUST ACCOUNTS

The following account titles, without further elaboration as to the nature or ownership of the account, **DO NOT COMPLY** with the requirements of SCR 20:1.15(b)(2):

- Law Office of John Jones
- Law Office of John Jones – IOLTA Account
- Law Office of John Jones – WISTAF Account
- Law Office of John Jones – Wisconsin Trust Account Foundation Account

RE-TITLING INSTRUCTIONS

If your trust account is not identified as a “**Trust Account**,” a “**Client Account**,” or with similar language, you have not complied with SCR 20:1.15(b)(2), and **must** take steps to immediately correct this. Failing to do so could result in the seizure or garnishment of client funds by a creditor, or in the filing of liens against the trust account.

- 1) **Contact your financial institution** immediately to **re-title the account**, and **confirm** that the account is properly identified on the **signature card** and the monthly **bank statement**.

(NOTE: If the financial institution requires the creation of a new account in order to accomplish the name change, a new overdraft notification agreement must be executed and filed with OLR and the financial institution.)

- 2) **Obtain new trust account checks and deposit slips** if the existing ones fail to properly identify the account.
- 3) **Provide OLR with a voided IOLTA trust account check**, bearing the account’s new name.

PROPER FORMAT FOR TRUST ACCOUNT CHECKS

OLR recommends that trust account checks be pre-printed and pre-numbered and that the name and address of the lawyer or law firm and the name of the account be printed in the upper left corner of the check. [See, OLR Guideline (1)(e)1. for Trust Account Records]

Pursuant to SCR 20:1.15(b)(2), checks for a IOLTA trust account as well as client-specific non-IOLTA trust accounts must include account titles such as: “Client Account,” “Trust Account,” or “words of similar import.”

SCR 20:1.15(b)(2) specifies, “The account shall be identified as such on all account records, including signature cards, monthly statements, checks, and deposit slips.” The rule further provides that an acronym, such as “IOLTA,” “IOTA,” or “LTAB,” without further elaboration, does not clearly designate the account as a client account or trust account.

PROPER TRUST ACCOUNT CHECK FORMAT

| | |
|---|---|
| LAW OFFICE OF JOHN JONES CLIENT TRUST ACCOUNT 1234 MAIN STREET, SUITE 100 ARCADIA, WI 54321 | 2022 ← RECOMMENDED PLACEMENT OF ACCOUNT NAME |
| <i>Pay to the Order of:</i> _____ | Date _____ S _____ Dollars |
|  We-Got Money Bank | |
| <i>Memo:</i> _____ | _____ |