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April 4, 2007

A. John Voelker  
Acting Clerk  
Wisconsin Supreme Court  
110 East Main Street, Suite 215  
P.O. Box 1688  
Madison, WI 53701-1688

RE: Petition 06-04 (Trust Accounts)

Dear Mr. Voelker:

Enclosed for filing please find nine copies of a letter from Attorney John H. Lhost to State Bar staff in support of Petition 06-04, which is scheduled for an open administrative conference on April 12, 2007.

If you have any questions regarding this filing, please contact Adam Korbitz, Government Relations Coordinator, at (608) 250-6140 or [akorbitz@wisbar.org](mailto:akorbitz@wisbar.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Basting".

Thomas J. Basting  
President-Elect  
State Bar of Wisconsin

Cc: Carrie Janto w/ attachment

**State Bar of Wisconsin**

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158  
(800)728-7788 ♦ (608)257-3838 ♦ Fax (608)257-5502 ♦ Internet: [www.wisbar.org](http://www.wisbar.org) ♦ Email: [service@wisbar.org](mailto:service@wisbar.org)



411 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202-4497  
Tel 414.277.5000  
Fax 414.271.3552  
www.quarles.com

*Attorneys at Law in:*  
Phoenix and Tucson, Arizona  
Naples, Florida  
Chicago, Illinois  
Milwaukee and Madison, Wisconsin

Writer's Direct Dial: 414.277.5867  
E-Mail: [jhl@quarles.com](mailto:jhl@quarles.com)

March 29, 2007

**VIA U.S. MAIL & E-MAIL (AKORBITZ@WISBAR.ORG)**

Adam C. Korbitz, Esq.  
State Bar of Wisconsin  
5302 Eastpark Boulevard  
P.O. Box 7158  
Madison, WI 53707-7158

**RE: Proposed Amendments to SCR 20:1.15**

Dear Mr. Korbitz:

This letter is being sent to you in support of the proposed amendments to the lawyer trust account rules set forth in SCR 20:1.15 drafted by the State Bar "Working Group." The letter is being sent not only on my own behalf but on behalf of the approximately two dozen attorneys in Quarles & Brady's Milwaukee office practicing in the area of estate planning, probate and trust law. I have written the letter because I have participated with the Working Group in addressing what attorneys practicing in the area of estate planning, probate and trust law have viewed as problems with the rules as initially promulgated, creating significant obstacles or outright prohibitions to attorneys providing their clients with services that the clients were seeking. The proposed amendments clarify application of the rules and provide an extent of flexibility that is needed where attorneys have been asked to serve in the role as fiduciary, such as, serving as trustee of a trust for the benefit of a client's family after the client has passed away.

Several examples come to mind:

1. Under the original set of rules, there is an apparent overlap in definitions of "trust property" (SCR 20:1.15(a)(10)) and "fiduciary property" (SCR 20:1.15(a)(4)), creating confusion and possible application of rules in unintended situations. For example, a narrow interpretation of the definitions would require that all fiduciary property be placed in IOLTA or interest-bearing traditional "trust" accounts. Where the attorney is serving as trustee holding investments and perhaps even the family home or a family business in trust for the benefit of the family of the deceased client, this confusion over the application of the definitions could create significant problems. The Working Group's proposal seeks to clarify application of the rules through clarification of the definitions.

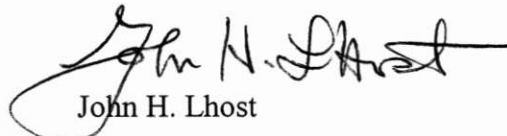
2. Under the rules as originally promulgated the investment options available to fiduciaries are not clear. To provide consistency between the trust account and fiduciary account rules, the Working Group has proposed modifications enumerating permitted investments comparable to those permitted for "trust accounts," but tailored to the fiduciary context (proposed SCR 20:1.15(j)(1m)).
3. One of the most important proposed amendments is that to the rule regarding the location in which fiduciary property may be held (SCR 20:1.15(j)(2)). The original rule requires retention of all fiduciary property in Wisconsin unless approved by the client, authorized by the operative document, or as permitted by court order. The problem here was that in many instances trusts were created a number of years ago and were expected to last a number of years. The "client" has passed away. The trust beneficiaries do not have the authority and in many cases the capacity to direct or authorize actions on behalf of the lawyer serving as trustee. Moreover, in today's financial world, clients not only anticipate, but require, that investments made by trustees be structured professionally. This can and often does involve brokerage firms, investment advisors and mutual funds, many of which are not located within the State of Wisconsin. Prohibition from the ability to use these resources impedes an attorney serving as fiduciary from providing the trust beneficiaries with the quality of service that they deserve and that the settlor (creator) of the trust anticipated. The proposed amendments address this matter to provide authority under appropriate circumstances for the full range of financial products available to the public to be utilized by lawyers serving as fiduciaries, wherever located.

In conclusion, the rules as originally promulgated are very restrictive and did not afford attorneys serving as fiduciaries the flexibility needed to address fully the needs of their clients. The proposed amendments address these problems and should provide sufficient latitude to enable attorneys serving as fiduciaries to provide the highest quality of service to their clients while at the same time providing a measure of safety from the possibility of improper actions by some lawyers.

Accordingly, the undersigned submits the foregoing in support of the amendments to SCR 20:1.15 proposed by the Bar's Working Group, and requests that you include this letter with other materials submitted to the Court.

Respectfully submitted,

QUARLES & BRADY LLP



John H. Lhost