



LOUISIANA ATTORNEY DISCIPLINARY BOARD

OFFICE OF THE DISCIPLINARY COUNSEL

4000 S. Sherwood Forest Blvd.

Suite 607

Baton Rouge, Louisiana 70816

(225) 293-3900 • 1-800-326-8022 • FAX (225) 293-3300

December 9, 2011

Dear Sir or Madam,

The Office of Disciplinary Counsel and the Louisiana Attorney Disciplinary Board are pleased to announce that the Louisiana Supreme Court has amended its Rules of Professional Conduct regarding overdraft notification on attorney maintained trust accounts to ease the regulatory burden and simplify the process for financial institutions and lawyers alike. Effective January 1, 2012 Rule XIX, section 28 has been amended to require that lawyers who maintain funds of clients and other third persons in trust accounts do so only at financial institutions that have agreed to report to the Office of Disciplinary Counsel whenever a properly payable instrument is presented against a lawyer trust account containing insufficient funds.

Financial institutions wishing to hold lawyer trust accounts must complete a Trust Account Overdraft Notification Agreement and return it to the Louisiana Attorney Disciplinary Board as soon as possible. An agreement form is attached to this notice or can be accessed by going to the Board's website at www.ladb.org. The financial institution's name will then be included on the list of participating, approved financial institutions as of January 1, 2012, the effective date of the rule amendment.

In essence, the agreement provides that the financial institution will notify the Office of Disciplinary Counsel of any instance where a properly payable instrument is presented against a lawyer's trust account holding insufficient funds, whether the instrument is honored or not; and whether the account carries an overdraft protection feature. The agreement applies to all branches of the financial institution, and applies to all lawyer trust accounts, whether IOLTA enrolled or non-IOLTA. The agreement sets forth the requirements for overdraft reporting consistent with the Rules of Professional Conduct and the provisions of R.S. 6:332 and R.S. 6:333(F)(16) of the legislature.

Consistent with the statute, the agreement provides that the financial institution may charge the lawyer or law firm the reasonable costs of producing the required reports and records. These charges may be deducted from the interest created on the trust or escrow account that would otherwise go to the Louisiana Bar Foundation under the IOLTA program.

The Court's amendment requires that lawyers confirm that their financial institution has agreed to provide trust account overdraft notification to the Office of Disciplinary Counsel. The Louisiana Attorney Disciplinary Board will maintain and publish a list of financial institutions that have agreed to provide such notifications, and will be available on the LADB website.

Over forty (40) states have some form of overdraft notification requirement applicable to lawyer trust accounts. While Louisiana has been an active participant in the overdraft notification effort, the new amendment by the Louisiana Supreme Court will streamline the process for compliance, lower the cost, and provide a simple and easy means to comply in this meaningful effort to protect the public.

Please return your executed agreement form to:

Donna Roberts, Board Administrator
Louisiana Attorney Disciplinary Board
2800 Veterans Blvd., Suite 310
Metairie, Louisiana 70002

We appreciate your cooperation in relation to these Rule amendments associated with reporting overdrafts on lawyers trust accounts. If you have any questions, feel free to contact me at 225-293-3900.

Sincerely,



Charles B. Plattsmier
Chief Disciplinary Counsel
4000 S. Sherwood Forest Blvd., Ste. 607
Baton Rouge, Louisiana 70816
225-293-3900

TRUST ACCOUNT OVERDRAFT NOTIFICATION AGREEMENT

To: Louisiana Attorney Disciplinary Board
2800 Veterans Blvd., Suite 310
Metairie, Louisiana 70002

_____ (Financial Institution) submits this Trust Account Notification Agreement for the purposes of qualifying as a participating financial institution authorized to maintain lawyer trust accounts pursuant to the requirements of Louisiana Supreme Court Rule XIX, Section 28.

FINANCIAL INSTITUTION AGREES:

1. To report to the Office of Disciplinary Counsel in the event that a properly payable instrument is presented against a lawyer trust account containing insufficient funds, regardless of whether or not the instrument is honored, or whether the trust account features overdraft protection.
2. Notifications sent pursuant to this agreement shall be written and/or by electronic notification to:
Office of Disciplinary Counsel
4000 S. Sherwood Forest Blvd., Suite 607
Baton Rouge, Louisiana 70816
225-293-3900 (Phone)
225-293-3300 (Fax)
E-mail to overdraft@ladb.org
3. Pursuant to Legislative Act 249 of the 2005 Regular Session, notice to the Office of Disciplinary Counsel shall be issued after five (5) business days have passed from the date of notice to the attorney, and whether or not the account remains in overdraft status; but such notice will not issue where the overdraft was created solely by bank charges imposed or when charges are imposed through bank error. Costs associated with providing this notice may be charged to the attorney and deducted from the interest created on the trust or escrow account. The act further provides that no civil or criminal action may be based upon a disclosure or non-disclosure of financial records made pursuant to the Act.
4. This agreement applies to all branches of the participating financial institution and shall not be cancelled except upon thirty (30) days notice in writing to the Louisiana Attorney Disciplinary Board.
5. The financial institution shall notify the Louisiana Attorney Disciplinary Board within thirty (30) days of any changes in the financial institution's name, address, or contact information as provided in this agreement.
6. This agreement is binding on any successor institution in the event of a merger, consolidation or otherwise.

Date

Signature of Authorized Officer

Name of Authorized Officer (please type/print)

Title of Authorized Officer

FINANCIAL INSTITUTION CONTACT INFORMATION

Name of Financial Institution

Address of Main Branch

City State Zip Code

Name of Designated Contact

Title of Designated Contact

Telephone Number

Fax Number

E-Mail Address