

REGULATION OF THE LEGAL PROFESSION IN WISCONSIN

FISCAL YEAR 2021-2022

Report of the Lawyer Regulation System



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Office of Lawyer Regulation**

**Honorable Denis Donohoe, Chairperson
Board of Administrative Oversight**

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Trust Account Program

The Trust Account Program administers Wisconsin's overdraft notification rule, SCR 20:1.15(h), which requires attorneys to authorize their financial institutions to notify the Office of Lawyer Regulation of overdrafts on their trust accounts and fiduciary accounts. In addition, the Trust Account Program educates and assists lawyers and financial institutions regarding trust and fiduciary account regulation and management.

OLR's Intake staff screens all incoming reports of overdrafts on lawyer trust and fiduciary accounts. Overdrafts reported to OLR due to bank errors and those that meet other criteria for closure without a full investigation are handled by the Trust Account Program Administrator. Overdrafts requiring full investigation are also assigned to the Trust Account Program Administrator.

OLR received 37 reports of overdrafts on trust and fiduciary accounts of Wisconsin lawyers during Fiscal Year 2022. During that same period, overdraft notifications resulted in the following dispositions:

Diversion	2
Dismissal after Diversion Program Successfully Completed	3
Dismissal after Investigation	3
Dismissal after Investigation/Advisory Letter	3
De Minimis Closure	25
Closed without Investigation – Bank Errors	3
Closed without Investigation – Collection Account Exception	1

Overdraft investigations occasionally lead to the discovery of record-keeping deficiencies and other concerns not warranting discipline. In these cases, an advisory letter is sent to the lawyer or law firm, explaining the concerns and providing guidance on the requirements of SCR 20:1.15 or other applicable rules. During Fiscal 2022, OLR sent 18 advisory letters, which included guidance on one or more of the following topics:

Maintenance Account	6
Distinguish Checks	4
Availability of Funds	3
Electronic Transfers	2
Check/Deposit Slips – Memo Lines, Signatory & Endorsement	1
Monthly Reconciliation Deficiencies	1
Account Security	1

On July 12, 2021, Travis Stieren, OLR's Trust Account Program Administrator, presented at an online seminar for the Senior Lawyers Division of the State Bar of Wisconsin, entitled "How to Avoid Scams for Senior Lawyers." This seminar focused on common scams in lawyer trust accounts, as well as telephone, email, internet, and other forms of technology fraud.

Stieren also presented a half-day seminar on trust account management on September 24, 2021. Attorney Diane Diel of Milwaukee assisted OLR at this seminar,

along with Michele Barlow, a vice president at MACHA/PAR, the Premier Payments Resource, and Tehmina Islam, the IOLTA Program/Office Manager of the Wisconsin Trust Account Foundation (WisTAF). Ms. Diel is a past State Bar president. She spoke about the proper handling of legal fees and the alternative to holding unearned fees in trust. Ms. Barlow manages the education department at MACHA, the Mid-Atlantic ACH Association. Ms. Barlow provided information about electronic banking in trust accounts. Ms. Islam presented an overview of the functions of WisTAF, the Interest on Lawyer Trust Accounts (IOLTA) program, and the programs and organizations that are funded by the IOLTA program. This annual seminar is open to lawyers and law office staff members, and is often required in connection with trust account diversions.

Stieren conducted an in depth review of Wisconsin's trust account rule, SCR 20:1.15, and the trust account rules of the other 49 states and the District of Columbia, focusing on how other states handle electronic banking in lawyer trust accounts. Currently, Wisconsin has the most restrictive provisions regarding electronic banking. Stieren surveyed interested constituencies regarding the need to revise and modernize Wisconsin's trust account rule, in particular its provisions prohibiting electronic transactions. Director Samuelson and Stieren have prepared a petition to revise SCR 20:1.15 to allow for electronic transactions to and from lawyer trust accounts similar to other states, which petition requests the Supreme Court to make the new trust account rule effective January 1, 2023.

For further information regarding the Trust Account Program go to:
<https://www.wicourts.gov/services/attorney/trust.htm>.