

## 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 appearing 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) In the event that 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

\_\_\_\_\_  
Street Address/P.O. Box

\_\_\_\_\_  
City, State, Zip Code  
(      )

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature - Managing Lawyer

\_\_\_\_\_  
Name - Managing Lawyer (Print or Type)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Contact Person at Law Firm

\_\_\_\_\_  
Name of Financial Institution

\_\_\_\_\_  
Street Address of Branch

\_\_\_\_\_  
City, State, Zip Code  
(      )

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature - Representative of Financial Institution

\_\_\_\_\_  
Name - Financial Institution Representative (Print or Type)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Account Name

\_\_\_\_\_  
Name of Former Law Firm

FORMER FIRM IS DEFUNCT

LIST OF ADDITIONAL ACCOUNTS IS ATTACHED

\_\_\_\_\_  
Account Number

**ACCOUNT TYPE:**

IOLTA     E-Banking IOLTA     Individual Client

All-in-One IOLTA     Fiduciary

**OFFICE OF LAWYER REGULATION – TRUST ACCOUNT PROGRAM**  
**110 EAST MAIN STREET, SUITE 315, MADISON, WI 53703-3383**  
**TELEPHONE: 608-261-8296 ♦ FAX: 608-267-1959**  
**TOLL FREE TELEPHONE: 877-315-6941 (OPTION 2)**

**PAPERCLIP (DO NOT STAPLE) A VOIDED, PRE-PRINTED IOLTA CHECK TO THE AGREEMENT FILED WITH OLR FOR EACH IOLTA AND ALL-IN-ONE IOLTA, AND IF APPLICABLE, FOR AN E-BANKING TRUST ACCOUNT. SEE INSTRUCTIONS.**

## INSTRUCTIONS

- ◆ **Name/Address/Telephone Number of Lawyer/Law Firm:** Insert the full name of the lawyer or law firm, along with the lawyer or 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 or 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.

- ◆ **Law Firm Contact Person:** Insert the name of a person at the law firm who can address general questions about this agreement and/or initial questions in the event of an overdraft on the firm's 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.

**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)(7)]; 2) an "**E-Banking IOLTA**" [SCR 20:1.15(f)(3)b.]; 3) an **All-in-One IOLTA** [the alternative to an E-Banking Trust Account under SCR 20:1.15(f)(3)c.]; 4) a trust account for an "**Individual Client**" or matter [SCR 20:1.15(c)(2)]; or 5) 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** or **All-in-one IOLTA**, or if it is an **E-Banking Trust Account** in which checks and e-transactions 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. See, *Proper Format for IOLTA Account Checks* for important information.



**DO NOT ATTACH CHECKS** for **FIDUCIARY ACCOUNTS** or for **NON-IOLTA TRUST ACCOUNTS** established for an individual client or matter to this Agreement.

**FILING  
REQUIREMENTS:**

In order to comply with SCR 20:1.15(h), the Overdraft Notification rule, 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 on which payments can be dishonored. 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 IOLTA 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 also 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 traditional IOLTAs<sup>1</sup> and for All-in-One<sup>2</sup> IOLTAs:

- ◆ Law Office of John Jones – Client 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
- ◆ Law Office of John Jones – Trust Account (All-in-One) (if applicable)

The following account title is required by SCR 20:1.15 (f)(3)b.2. for E-Banking Trust Accounts:

- ◆ Law Office of John Jones – E-Banking 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

## INSTRUCTIONS

If your IOLTA 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 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.

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<sup>1</sup> A traditional IOLTA is a trust account in which electronic transactions, including credit, debit and other card transactions, as well as ACH transfers are prohibited. Disbursements are made by check or wire transfer.

<sup>2</sup> An “All-in-One” IOLTA is a trust account in which checking and electronic transactions are permitted. It provides an alternative to the E-Banking Trust Account and is subject to the insurance and security requirements of SCR 20:1.15(f)(3)c.

## PROPER FORMAT FOR IOLTA 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 traditional IOLTA trust account, an “All-in-One Trust Account” or a “primary trust account” used in conjunction with an E-Banking Trust Account must all include account titles such as: “Client Account,” “Trust Account,” or “words of similar import.”

**CAUTION:** While electronic transactions are permitted in an All-in-One Trust Account, that account should **not** be titled: “E-Banking Trust Account” as the E-Banking Trust Account is a distinct type of IOLTA account that is subject to the requirements of SCR 20:1.15(f)(3)b. The All-in-One IOLTA is an alternative to the E-Banking Trust Account and is subject to the requirements of SCR 20:1.15(f)(3)c.

### FORMAT FOR TRADITIONAL IOLTA AND ALL-IN-ONE IOLTA CHECKS

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

### FORMAT FOR E-BANKING TRUST ACCOUNT CHECKS

LAW OFFICE OF JOHN JONES E-BANKING TRUST ACCOUNT 1234 MAIN STREET, SUITE 100 ARCADIA, WI 54321	2022 ← RECOMMENDED PLACEMENT OF ACCOUNT NAME	
Pay to the Order of: _____	Date _____	\$ _____ Dollars
We-Got Money Bank Memo: _____	_____	