

Overdraft Notification Program

The Overdraft Notification Rule, Supreme Court Rule 20:1.15(h), requires attorneys to authorize their financial institutions to notify the Office of Lawyer Regulation of overdrafts on their client trust accounts and fiduciary accounts. Information regarding the trust account overdraft program is available at the Office of Lawyer Regulation's web page [www.wicourts.gov/olr].

During Fiscal Year 2006, 83 overdrafts were reported to the OLR. That number constitutes a 20% decrease from the number of overdrafts reported in 2005 (104). A similar decrease had occurred in 2005, when 21% fewer overdrafts were reported than in Fiscal 2004. The reduction in overdrafts may be attributable to regulatory oversight and efforts to educate lawyers and their staff members regarding proper trust account management.

Overdraft notifications have resulted in the following dispositions this year:

Revocation by Consent	1
Medical Incapacity Suspension	1
Diversion	7
Dismissal after Diversion Program Successfully Completed	17
Dismissal after Investigation	10
Dismissal after Investigation/Advisory Letter	33
Closed without Investigation – Collection Account Exception	4
Closed without Investigation – Real Estate Exception/Advisory Letter	2
Closed without Investigation – Bank Errors	15
Closed without Investigation – Bank Errors/Advisory Letter	1
Closed Pending Reinstatement Proceedings	1

The advisory letters sent during Fiscal 2006, some of which included more than one advisory, related to the following issues and record keeping deficiencies:

Availability of Funds for Disbursement	13
Maintenance Account (to cover bank charges)	5
Deposit Slip Issues	3
Inadequate Endorsement	8
Check Drafting Errors	3
Signatory Authority on Trust Accounts	3
Failure to Maintain Canceled/Imaged Checks	8

(Continued)

Transaction Register/Client Ledger Deficiencies ¹	32
Reconciliation Issues	3
Inadequate Identification of Trust Account	10
Computer Software Deficiencies	6
Prohibition against Electronic Transactions (Credit Card/Telephone/Internet)	2
Other	3

On October 28, 2005 and April 28, 2006, OLR staff presented ½-day seminars on trust account management in conjunction with diversions. Commencing with the April 28, 2006 seminar, OLR offers this training to all lawyers and law office staff members. Trust account management was also one of the topics covered at OLR’s Professionalism Seminar on November 4, 2005. In addition, OLR’s Trust Account Program Administrator presented trust account seminars at the following locations:

Date	Presented to:	Location
9/29/2005	University of Wisconsin Law School	Madison
11/18/2005	Legal Ethics 2005 Seminar Northeast Wisconsin Technical College	Green Bay
5/4/2006	State Bar Sole and Small Practice Section State Bar Convention	Madison

Finally, on May 22, 2006, the OLR and the State Bar filed a joint petition with the Wisconsin Supreme Court, seeking both substantive and ministerial changes to SCR 20:1.15 and related rules. (*In the Matter of the Amendment of SCR 20.1.15 Safekeeping Property; SCR 20.1.0 Definitions; SCR 21.16 Discipline; and SCR 12.04 Wisconsin Lawyers Fund for Client Protection*). A public hearing on the petition has not yet been scheduled.

¹ This category includes advisories regarding running balances in the Transaction Register and/or Client Ledgers; advisories regarding the problems inherent to using check stubs to maintain the Transaction Register; advisories regarding the required content of the Transaction Register and/or Client Ledgers; and advisories regarding the mistaken assumption that a settlement breakdown constitutes a Client Ledger.