

## MEMORANDUM

FROM: Office of Lawyers Professional Responsibility

RE: TRUST ACCOUNT OVERDRAFT NOTIFICATION AGREEMENT

Rule 1.15, Minnesota Rules of Professional Conduct (MRPC), is the rule pertaining to lawyer trust accounts. Among other things, it requires lawyers to maintain their client trust accounts only in financial institutions that have signed an agreement to report to this Office “in the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds, irrespective of whether or not the instrument is honored.”

Rule 1.15, MRPC, requires that financial institutions, as an additional condition for approval to maintain lawyer trust accounts, agree to pay a certain minimum level of interest on its Interest on Lawyer Trust Account (“IOLTA”) accounts, i.e., the lawyer trust accounts on which interest is remitted to the IOLTA Program. Specifically, Rule 1.15(o), MRPC, now requires the following:

An approved eligible financial institution must pay no less on IOLTA accounts than (i) the highest earnings rate generally available from the institution to its non-IOLTA customers on each IOLTA account that meets the same minimum balance or other eligibility qualifications, or (ii) 80% of the Federal Funds Target Rate on all its IOLTA accounts. The rate to be paid shall be fixed on the first day of each month, subject to rate changes during the month reflected in normal month-end calculations.

Rule 1.15, MRPC, also includes a definition of “allowable reasonable fees” that approved financial institutions may charge to IOLTA accounts and a limitation of the source for payment of those fees to the interest earned on the individual IOLTA account, as follows:

‘Allowable reasonable fees’ for IOLTA accounts are per check charges, per deposit charges, sweep fees and similar charges assessed against comparable accounts by the eligible financial institution. All other fees are the responsibility of, and may be charged to, the lawyer maintaining the IOLTA account. Fees or charges in excess of the earnings accrued on the account for any month or quarter shall not be taken from earnings accrued on other IOLTA accounts or from the principal of the account. Eligible

financial institutions may elect to waive any or all fees on IOLTA accounts.

Various explanatory materials to help you understand and comply with all of the above requirements are attached.

To be approved as an institution in which attorney trust accounts may be maintained, your institution must complete and sign the enclosed Trust Account Overdraft Notification and Interest on Lawyer Trust Account (“IOLTA”) Comparability Agreement and return the original to:

Office of Lawyers Professional Responsibility  
445 Minnesota Street, Suite 2400  
St. Paul, MN 55101-2139

A list of approved institutions appears at this Office’s Internet website <http://lprb.mncourts.gov>.

If you have any questions regarding the reporting of overdrafts on lawyer trust accounts, please call the Director’s Office at (651) 296-3952 or (out-state) 1-800-657-3601, and ask for Annette Winrick.