

**OPINION NO. 12**  
**TRUST ACCOUNT SIGNATORIES**

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The Lawyers Professional Responsibility Board has recently adopted Opinion No. 12 which provides as follows:

Every lawyer engaged in the private practice of law shall by appropriate direction provide that every check, draft, or other withdrawal instrument drawn against a law firm trust account, or other similar or separate account maintained by a lawyer or law firm for the deposit of client funds and property, shall be signed by at least one lawyer associated with the lawyer or law firm.

Every lawyer engaged in the private practice of law shall by appropriate direction provide that no withdrawal from a law firm trust account or other similar separate account or other similar separate account maintained for the deposit of client funds and property shall be made except at the direction of at least one lawyer associated with the lawyer or law firm.

Two recent events prompted the issuance of Opinion No. 12. In a recent disciplinary case, trust funds were erroneously disbursed to the respondent on a check signed by a non-lawyer employee of the respondent. Under all the facts and circumstances of the particular case, the supreme court declined to find misconduct, but the incident prompted concern by my office and the Board about the appropriate procedures for making disbursements from trust accounts. At about the same time, a law office administrator asked for an advisory opinion concerning signatory power over trust accounts. When I received the request for an advisory opinion, I decided that the issue was one which required Board resolution.

The Board carefully considered the issue at several meetings. Public policy considerations, the implications of electronic banking and possible administrative burdens all were considered by the Board in its deliberations.

One of the most compelling arguments for Opinion No. 12 was that lawyers handling law office trust account funds are fiduciaries. In many circumstances, fiduciaries handling trust monies are bonded. Common examples include personal representatives and guardians. It is also common for financial institutions to require that all employees handling significant sums of money be bonded. Bonding serves as a protection against not only negligent, but intentional loss.

At least with respect to the usual law office trust account, no bonding requirement is imposed upon attorneys or their employees. Under these circumstances, the Board felt it appropriate to require that no withdrawal can be made from a law office trust account without the authorization of a lawyer associated

with the firm who is also subject to the licensing and disciplinary authority of the Minnesota Supreme Court.

We are concerned about possible administrative burdens imposed by Opinion No. 12. The lawyer members of the Board who are associated with both large and small firms believed that administrative burdens would be inconsequential and that many, if not most, law firms already had procedures consistent with Opinion No. 12. In any event, a policy decision was made that other considerations were more important than minimal administrative inconvenience.

Opinion No. 12 simply requires that checks, drafts and other withdrawal instruments requiring a signature and drawn against a law firm trust account be signed by at least one lawyer associated with the lawyer or law firm. Where electronic withdrawals are made from such accounts, the lawyer must ensure that procedures exist so that no such withdrawals can be made except at the direction of at least one lawyer associated with the lawyer or law firm.

We believe that most law firms already follow the procedures outlined in Opinion No. 12. Since Opinion No. 12 has been issued pursuant to the Board's power under Rule 4(c), Rules on Lawyers Professional Responsibility, any law firm or lawyer whose current trust account procedures do not comply with Opinion No. 12 should modify them immediately.