

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, and considering the recommendations of the Louisiana State Bar Association, as well as the Louisiana Legislature's promulgation of 2005 La. Acts No. 249,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Part 1. Louisiana Supreme Court Rule XIX, §28 be and is hereby amended to change the Section title and to enact a Subpart D, to read as follows:

Section 28. Maintenance of Trust Accounts by Lawyers; Access to Lawyers' Financial Account Records; Overdraft Notification.

* * *

D. Overdraft Notification. Any lawyer or law firm maintaining a client trust or escrow account in accordance with this rule and Rule 1.15 of the Louisiana Rules of Professional Conduct shall execute an agreement with the federally-insured financial institution or its affiliate that holds the attorney's trust or escrow account funds. The agreement shall authorize the financial institution to provide written or

electronic notification to the Office of Disciplinary Counsel of any overdraft on such account(s). Notification of trust or escrow account overdrafts shall be made in accordance with the written agreement between the federally-insured financial institution and the attorney or law firm and in accordance with La. R. S. 6:332 and La. R. S. 6:333(F)(16).

Every lawyer practicing or admitted to practice in Louisiana shall, as a condition thereof, be conclusively deemed to have consented to the overdraft provisions mandated by this rule.

A copy of the executed agreement shall be forwarded to the Office of Disciplinary Counsel within thirty (30) days of its execution. A Court-approved overdraft notification agreement that attorneys and federally-insured financial institutions and their affiliates shall utilize is included as Appendix F to these rules.

Part 2. This rule change shall become effective on April 15, 2006, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court. Notwithstanding the effective date of this rule change, all attorneys who maintain trust or escrow accounts on the effective date of this rule change shall confect agreements with their financial institution(s) so that the overdraft notification procedure shall become effective on November 1, 2006 and thereafter. Attorneys who open trust or escrow accounts in accordance with La. S. Ct. Rule XIX, §28 and Rule 1.15 of the Rules of Professional

Conduct between April 15, 2006 and November 1, 2006 shall conflict agreements with their financial institutions so that the overdraft notification procedure shall become effective on November 1, 2006 and thereafter. Any attorney who opens a client trust or escrow account on or after November 1, 2006 shall not deposit funds in any such account until an agreement in conformance with these rules is executed between the attorney and the financial institution(s) in which the trust or escrow account funds are to be placed.

New Orleans, Louisiana, this _____ day of _____, 2006.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, the inherent power of this Court, and considering the need to make amendments to the Rules of Professional Conduct, as well as to the Rules for Lawyer Disciplinary Enforcement,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Part 1. Louisiana Supreme Court Rule XIX, §7(i) shall be amended to read as follows:

Section 7. Roster of Lawyers.

The Disciplinary Board shall maintain or have ready access to current information relating to all lawyers subject to the jurisdiction of the board including:

* * *

- (i) location and account numbers and IOLTA status of bank accounts in which clients' funds or funds of a third person are held by the lawyer, copies of which are to be furnished to the Louisiana Bar Foundation and the Louisiana Attorney Disciplinary Board;

* * *

Part 2. Louisiana Supreme Court Rule XIX, §8C, third paragraph, be and is hereby enacted to read:

Section 8. Periodic Assessment of Lawyers.

* * *

C. Registration Statement.

* * *

The registration process mandated by these rules shall include provisions for the identification of all trust or escrow account information as required by Section 7(i), or certification that the lawyer does not maintain a trust or escrow account because of the nature of the lawyer's practice. If there has been no change in the trust account information previously identified, the lawyer shall certify that such information remains correct. Where a change has occurred in the trust or escrow account information previously submitted, the lawyer shall disclose that fact and submit the required trust or escrow account information on the approved form located in Appendix F of these rules. Each lawyer shall file with the Louisiana Bar Foundation and Louisiana Attorney Disciplinary Board any change or addition to trust or escrow account information within thirty (30) days of the change or addition.

Part 3. Louisiana Supreme Court Rule XIX, § 8D, first sentence, be and is hereby amended to read as follows:

D. Sanctions for Noncompliance.

Any lawyer who fails to pay timely by July 1st the disciplinary enforcement and administration fee as required by subsection A of

these rules and/or fails to file or supplement a registration statement or trust account information as required by subsection C of these rules shall be mailed, by first class mail, to the attorney’s last-known primary address, a notice of delinquency and imminent certification of ineligibility to practice law . . .

Part 4. Rule 1.1(c) of the Louisiana Rules of Professional Conduct be and is hereby enacted to read:

Rule 1.1. Competence

* * *

(c) A lawyer is required to comply with all of the requirements of the Supreme Court’s rules regarding annual registration, including payment of Bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein.

These rule changes shall become effective on April 15, 2006, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana, this _____ day of _____, 2006.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court, and considering the recommendations of the Louisiana State Bar Association, as well as the Louisiana Legislature's promulgation of 2005 La. Acts No. 249,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Appended to this Order is a Trust Account Disclosure and Overdraft Notification Authorization Form to be used by attorneys for reporting trust account information and authorizing banks to provide overdraft notification.

The attached form shall be designated as Appendix F to Louisiana Supreme Court Rule XIX.

This Order shall become effective on April 15, 2006, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana, this _____ day of _____, 2006.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice

Supreme Court of Louisiana

Trust Account Disclosure &

Overdraft Notification Authorization

Pursuant to the inherent, plenary and Constitutional authority of the Louisiana Supreme Court to regulate the practice of law, and in accordance with Supreme Court Rule 19, every attorney licensed to practice law in Louisiana is required to disclose the existence of a trust or escrow account (or declare that because of the nature of their practice that they are not required to maintain such an account). Every attorney who maintains a trust or escrow account as required by the Rules of Professional Conduct is required to maintain such accounts with a federally insured financial institution with whom they have executed an agreement which authorizes the financial institution to provide written or electronic notification to the Office of Disciplinary Counsel of any overdraft created on such accounts. Use of this form complies with the rules of the Supreme Court.

I certify that because of the nature of my practice, I do not maintain a client trust or escrow account. I further certify that I do not handle funds of clients or third persons, and that I do not expect to receive the funds of a client or third person within the next twelve (12) months. Should these facts change, I am required to notify the Office of Disciplinary Counsel within 30 days and execute this form providing the required information.

(Attorney’s Signature)

(Date)

Trust Account Certification:

As an officer of the Court, I do certify that I am a duly licensed Louisiana attorney and I am familiar with the provisions of the Supreme Court rules regarding trust accounts. I acknowledge that:

1. all attorneys holding funds of clients or third persons must maintain a separate account for such funds (commonly referred to as a trust or escrow account);

2. every attorney maintaining a trust or escrow account must participate in the Interest On Lawyers Trust Account (IOLTA) Program unless a written notice is issued by the Louisiana Bar Foundation exempting an attorney’s account from participation; and

3. all attorneys who are required to maintain trust and escrow accounts must do so with a federally insured financial institution with which they have executed an agreement requiring the financial institution to provide written or electronic notification to the Office of Disciplinary Counsel of any overdraft incident created on such accounts.

I certify that the following information regarding my trust and escrow account(s) is truthful and accurate and that should such information change, I am ethically obligated to notify the Office of Disciplinary Counsel within 30 days of any change.

Bank Name and Address

Name Listed On Account

Account Number

(Attorney’s Signature)

(Date)

Law Firm Reporting

I am a member of the law firm of (insert firm name) and all trust and escrow accounts are maintained under the name of that law firm. The firm has designated one Louisiana licensed attorney, (insert name) as the responsible reporting counsel for our firm and that attorney’s bar roll number is . I adopt the reporting as made by our designated reporting attorney.

(Attorney’s Signature)

(Date)

Authorization To Financial Institution

The financial institution with whom I (or my law firm) maintain a trust or escrow account is hereby authorized to provide written and/or electronic notification to the Office of Disciplinary Counsel of an instance of overdraft occurring on such account(s) in accordance with the rules of the Louisiana Supreme Court and Act 249 of the Louisiana Legislature (Regular Session 2005). Notification shall be sent to:

Office of Disciplinary Counsel, 4000 S. Sherwood Forest Blvd., Suite 607, Baton Rouge, La. 70816 (phone: 225-293-3900 fax: 225-293-3300 e-mail: overdraft@ladb.org)

(attorney’s signature)

(bar roll number)

Authorization is Accepted:

(Bank Officer)

(Date)

(Notice to Financial Institution: Pursuant to Legislative Act 249 of the 2005 Regular Session, notice to the Office of Disciplinary Counsel shall be issued after five (5) business days have passed from the date of notice to the attorney, and whether or not the account remains in overdraft status; but such notice shall not issue where the overdraft was created solely by bank charges imposed or when charges are imposed thru bank error. Costs associated with providing this notice may be charged to the attorney and deducted from the interest created on the trust or escrow account. The Act provides that no civil or criminal action may be based upon a disclosure or a non-disclosure of financial records made pursuant to the Act.)