

## **§ 3-904. Trust account overdraft notification rules.**

(A) The trust account overdraft notification rules shall become effective on July 1, 2002.

(B) A financial institution shall be approved as a depository for lawyer trust accounts if it shall file with the Counsel for Discipline of the Nebraska Supreme Court an agreement, in a form provided by the Counsel for Discipline, to report to the Counsel for Discipline, 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. The Counsel for Discipline shall establish rules governing approval and termination of approved status for financial institutions and shall annually publish a list of approved financial institutions.

(C) No trust account shall be maintained in any financial institution which does not agree to make such reports. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon 30 days' notice in writing to the Counsel for Discipline.

(D) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor. The financial institution shall provide a copy or machine readable copy of the dishonored instrument, if the instrument is available to the financial institution, to the Counsel for Discipline within 5 banking days of receiving a written request for a copy of the instrument from the Counsel for Discipline; and

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the lawyer or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby.

(E) Such reports shall be delivered by mail, electronically, or otherwise to the Office of the Counsel for Discipline of the Nebraska Supreme Court within 5 banking days of the date on which an instrument is dishonored. If an instrument presented against insufficient funds is honored, then the report shall be delivered by mail, electronically, or otherwise to the Office of the Counsel for Discipline of the Nebraska Supreme Court within 5 banking days of the date of presentation for payment against insufficient funds.

(F) Every lawyer practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.

(G) Nothing herein shall preclude a financial institution from charging a particular lawyer or law firm for the reasonable cost of producing the reports and records required by this rule.

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