TRUST ACCOUNT OVERDRAFT NOTIFICATION RULE

A - Clearly Identified Trust Accounts Required

Attorneys who practice law in this jurisdiction shall deposit all funds held in trust as the result of the practice of law in this jurisdiction in an account clearly identified as a "trust account," and shall take all steps necessary to inform the depository institution of the purpose and identify of such accounts. Attorney trust accounts shall be maintained only in financial institutions approved by the Lawyers' Fund For Client Protection Board of the State Bar of Montana.

B - Overdraft Notification Agreement Required

A financial institution shall be approved as a depository for attorney trust accounts if it shall file with the Lawyers' Fund For Client Protection Board of the State Bar of Montana an agreement, in a form provided by the State Bar, to report to the Lawyers' Fund For Client Protection Board in the event any instrument in properly payable form is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. The State Bar of Montana may establish rules governing approval and termination of approved status for financial institutions and shall annually publish a list of approved financial institutions.

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 thirty (30) days notice in writing to the court.

C - Overdraft Reports

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, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors;

(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 attorney or law firm, the account number, the date of presentation for payment and the date paid, as well as the amount of the overdraft created thereby.

(3) Such reports shall be sent to the Lawyers' Fund For Client Protection Board of the State Bar of Montana at P.O. Box 577, Helena, MT 59624, in all cases.

D - Financial Institution Cooperation

In addition to the reports specified above, approved financial institutions shall agree to cooperate fully with the Lawyers' Fund For Client Protection Board and to produce any attorney trust account or attorney business account records upon receipt of a subpoena therefor. Every attorney or law firm shall be conclusively deemed to have consented to the reporting and production requirements mandated by this rule.

E - Costs

Nothing herein shall preclude a financial institution from charging a particular attorney or law firm for the reasonable costs of producing the reports and records required by this rule. Any costs incurred by the State Bar of Montana in investigating overdrafts reported under this rule shall be borne by the State Bar of Montana Lawyers' Fund For Client Protection in accordance with the Trust Account Maintenance and Verification Rule promulgated by the Montana Supreme Court.

Effective December 1, 1992.