

Rule Change # 1999(9)
The Colorado Rules of Civil Procedure

**Chapter 20. Colorado Rules of Procedure Regarding Attorney
Discipline and Disability Proceedings, Colorado Attorneys' Fund for
Client Protection, and Mandatory Continuing Legal
Education and Judicial Education**
Rule 251.34. Advisory Committee

Appendix to Chapters 18 to 20.
The Colorado Rules of Professional Conduct
**Rule 1.15. Safekeeping Property; Interest-Bearing
Accounts to be Established for the Benefit
of the Client or Third Persons or the Colorado
Lawyer Trust Account Foundation;
Notice of Overdrafts; Record Keeping**

Rule 251.34. Advisory Committee

(a) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(b) [NO CHANGE]

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) [NO CHANGE]

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) [NO CHANGE]

~~(7) Adopt such practices as may from time to time become necessary to govern the internal operation of the Advisory Committee as approved by the Supreme Court.~~

~~(8)~~(7) [Renumbered, NO OTHER CHANGE]

~~(9)~~ (8) [Renumbered, NO OTHER CHANGE]

~~(10)~~ (9) [Renumbered, NO OTHER CHANGE]

(10) [Renumbered, NO OTHER CHANGE]

Rule 1.15. Safekeeping Property; Interest-Bearing Accounts to be Established for the Benefit of the Client or Third Persons or the Colorado Lawyer Trust Account Foundation; Notice of Overdrafts; Record Keeping

(a) [NO CHANGE]

(b) [NO CHANGE]

(c) [NO CHANGE]

(d) [NO CHANGE]

(e) [NO CHANGE]

(f) **Required Bank Accounts.** Every attorney in private practice in this state shall maintain in a financial institution DOING BUSINESS IN ~~of~~ Colorado, in the attorney's own name, or in the name of a partnership of attorneys, or in the name of the professional corporation or limited liability corporation of which the attorney is a member, or in the name of the attorney or entity by whom employed:

(1) [NO CHANGE]

(2) [NO CHANGE]

(3) One or more of the trust accounts may be the account or accounts described in Rule 1.15(e)(2), known as COLTAF (Colorado LAWYER Trust Account Foundation) accounts.

(4) [NO CHANGE]

(5) [NO CHANGE]

(6) A trust account shall be maintained only in ~~Colorado~~ financial institutions DOING BUSINESS IN COLORADO WHICH ARE

approved by the Regulation Counsel with policy guidelines by the Board of Trustees of the Colorado Attorneys' Fund for Client Protection, which shall annually publish a list of such approved institutions. A financial institution shall be approved if it shall file with the Regulation Counsel an agreement, in a form provided, to report to the Regulation Counsel in the event any properly payable trust account instrument is presented against insufficient funds, irrespective of whether the instrument is honored; any such agreement shall apply to all branches of the financial institution and shall not be canceled except on thirty-days notice in writing to the Regulation Counsel. The agreement shall further provide that all reports made by the financial institution shall be in the following format: (1) in the case of dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor; (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. Such reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor, if any; if an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds. In addition, each financial institution approved by the Regulation Counsel must cooperate with the COLTAF program and must offer a COLTAF account to any attorney who wishes to open one. In addition to the reports specified above, approved financial institutions shall agree to cooperate fully with the Regulation Counsel and to produce any trust account or business account records on receipt of a subpoena therefor in connection with any proceeding pursuant to C.R.C.P. 251. Nothing herein shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by this Rule, BUT SUCH CHARGES SHALL NOT BE A TRANSACTION COST TO BE CHARGED AGAINST FUNDS PAYABLE TO THE COLTAF PROGRAM. Every attorney or law firm MAINTAINING A TRUST ACCOUNT in this state shall, AS A CONDITION THEREOF, be conclusively deemed to have consented to the reporting and production requirements BY FINANCIAL INSTITUTIONS MANDATED BY ~~of~~ this ~~Rule~~ AND SHALL INDEMNIFY AND HOLD HARMLESS THE FINANCIAL INSTITUTION FOR ITS COMPLIANCE WITH SUCH REPORTING AND PRODUCTION REQUIREMENT. A FINANCIAL INSTITUTION SHALL BE IMMUNE FROM SUIT ARISING OUT OF ITS ACTIONS OR OMISSIONS IN REPORTING OVERDRAFTS OR INSUFFICIENT FUNDS OR PRODUCING DOCUMENTS UNDER THIS RULE. THE AGREEMENT ENTERED INTO BY A FINANCIAL INSTITUTION WITH THE REGULATION COUNSEL SHALL NOT BE DEEMED TO CREATE A DUTY TO EXERCISE A STANDARD OF CARE AND SHALL NOT CONSTITUTE A CONTRACT FOR THE BENEFIT OF ANY THIRD PARTIES THAT MAY SUSTAIN A LOSS AS

A RESULT OF LAWYERS OVERDRAWING ATTORNEY TRUST
ACCOUNTS.

(g) [NO CHANGE]

(h) [NO CHANGE]

(i) [NO CHANGE]

[j] [NO CHANGE]

**Amended and Adopted by the Court, En Banc, May 13, 1999,
effective July 1, 1999.**

BY THE COURT,

**Gregory J., Hobbs, Jr.
Justice, Colorado Supreme Court**

