

**HAWAI‘I RULES
GOVERNING
TRUST ACCOUNTING**

**Adopted and Promulgated by
the Supreme Court
of the State of Hawai‘i**

**Adopted November 8, 1991
With Amendments as Noted**

**The Judiciary
State of Hawai‘i**

RULES GOVERNING TRUST ACCOUNTING

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RULES GOVERNING TRUST ACCOUNTING

Section I. AUTHORITY

These Rules Governing Trust Accounts are promulgated pursuant to Rule 11(f)(2) of the Rules of the Supreme Court of Hawai'i ("Rule 11").

Section II. PURPOSE

These Rules describe the minimum trust accounting records to be maintained and the minimum trust procedures to be followed by all participants in the Trust Account Program.

Section III. APPLICABILITY

These Rules apply to all attorneys and law firms which receive client funds that, under Rule 11, must be deposited in a Trust Account.

Section IV. MINIMUM TRUST ACCOUNTING RECORDS

Every attorney and law firm that maintains a Trust Account shall maintain complete records of the account for at least six (6) years after (1) completion of the employment to which they relate, or (2) the last transaction on the account, whichever occurs last. All such records shall comply with Disciplinary Rule 9-102(b) and Addendum A to the Code of Professional Responsibility.^[1]

Section V. MINIMUM TRUST ACCOUNT PROCEDURES

Every attorney and law firm that maintains a Trust Account shall require periodic statements from the financial institution with respect to each such account no less than quarterly. Within forty-five (45) days of the receipt of each such statement, the attorney or law firm shall reconcile such statement with the books and records of the attorney or law firm and shall, within sixty (60) days of receipt of the statement, take steps to correct any discrepancies that may exist. In the event of a discrepancy between the financial institution's statement and the books and

records of the attorney or law firm, records of the discrepancy and of the corrective action shall be maintained as part of the records required under Section IV of these Rules.

Section VI. IMMEDIATE REPORTING OF CERTAIN DISCREPANCIES AND RETURNED CHECKS

Every attorney and law firm shall, within ten (10) working days after learning of either (a) any discrepancy in any Trust Account which is in excess of ONE HUNDRED AND NO/100 DOLLARS (\$100.00) or (b) any Trust Account check being returned for insufficient funds, notify the Hawai'i Justice Foundation of the event. The notification shall be in writing, shall explain the event and its cause(s), if known, and shall be sent to the Foundation at 810 Richards Street, Suite 645, Honolulu, Hawai'i 96813, by certified mail. This requirement shall apply both to any Trust Account maintained by the attorney or law firm and to any Trust Account maintained by any other attorney or law firm of which an attorney has knowledge.

(Adopted November 8, 1991; amended effective November 30, 1993.)

Section VII. ANNUAL CERTIFICATE AND REPORT

Every attorney and law firm shall file each year a certificate certifying that the attorney or law firm has complied with the trust accounting procedures and record keeping procedures for the immediately preceding calendar year. Such certificate shall be incorporated into the annual attorney registration statement and shall be in such form as prescribed by the Board of Directors of the Hawai'i State Bar Association in consultation with the Hawai'i Justice Foundation. The form shall be designed so as to minimize the burden and time required to complete it. In addition, the Hawai'i State Bar Association may monitor and/or supplement compliance and reporting by requiring the submission of more detailed Trust Account reports on a random, rotational and/or for-cause basis.

(Adopted November 8, 1991; amended effective November 30, 1993.)

¹ Editor's note: The Code of Professional Responsibility and its Disciplinary Rules were repealed and replaced by the Hawai'i Rules of Professional Conduct (HRPC). See now HRPC Rule 1.15(f).

Section VIII

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Section VIII. AUDIT

If a lawyer or law firm either (1) fails to file the annual Certificate and Report required by Section VII of these Bylaws, (2) reports that a Trust Account check was dishonored for insufficient funds, the Hawai'i Justice Foundation shall forthwith report that fact and supply a copy of the Certificate (if any) to the Hawai'i State Bar Association and the office of Disciplinary Counsel, which may order an audit of the Trust Account(s) involved at the cost of the attorney or law firm audited. If a lawyer or law firm fails to correct any violation of either Rule 11 or these Rules within sixty (60) days after it is discovered through the audit process or otherwise fails to comply with these Rules, the Hawai'i State Bar Association shall refer the matter to the Office of Disciplinary Counsel. However, nothing in these Rules shall prevent or discourage any attorney from immediately reporting to the Office of Disciplinary Counsel any violation of the Code of Professional Responsibility involving a Trust Account.

(Adopted November 8, 1991; amended effective November 30, 1993.)

Section IX. AMENDABILITY

These Rules may be amended by the Board of Directors of the Hawai'i State Bar Association at any time.