

**Lawyer's Representations Pursuant to CPA Examination of Lawyer's Trust Account(s)
(Lawyer's Representation Form)**

Pursuant to the policy of the North Carolina State Bar Council, a lawyer or law firm may seek exemption from the random audit of trust accounts authorized by 27 NCAC 1B, Rule .0128(b) by having a CPA or CPA firm perform an examination pursuant to the *Agreed Upon Procedures for CPA Examination of Lawyers' Trust Accounts* ("Agreed Upon Procedures") to provide information to the lawyer and the North Carolina State Bar regarding the management of the lawyer's trust account(s). As a condition of the exemption, the lawyer must make certain representations regarding the management of client and/or fiduciary funds held in trust. **This representation form and any attachments must be provided to the CPA/CPA firm prior to commencement of the examination and must be attached to the CPA report sent to the North Carolina State Bar.**

_____, hereafter "Lawyer" , must attach a list of all bank accounts into which Lawyer has deposited client or other fiduciary funds, including all general, dedicated, and fiduciary trust accounts (Attachment 1), and list all lawyers affiliated with Lawyer's firm to which the exemption would apply (Attachment 2).

Lawyer's Representations

I hereby certify personally and on behalf of any lawyers affiliated with this firm, whose names are listed in Attachment 2, that the account(s) listed in Attachment 1 is/are the only trust account(s) to which such lawyer(s) has had access during the past year, that the records and documents provided to _____, hereafter CPA, are the full and accurate records of the trust accounts and, further, with respect to transactions occurring during the past year, that the following statements are true:

- 1) The lawyer/firm does not maintain any trust accounts outside the state of North Carolina.
- 2) The lawyer/firm is aware of his/her duty to report trust/fiduciary account misappropriation.
- 3) The lawyer/firm retains required trust account records for at least the six (6) year period immediately preceding the lawyer's most recent fiscal year end.
- 4) The lawyer/firm has not used or pledged any entrusted property to obtain credit or other personal financial benefit for the lawyer or any other person other than the legal or beneficial owner of that property.
- 5) Entrusted properties belonging to a client received by the lawyer are promptly identified and labeled as the property of the client.
- 6) Entrusted property not deposited in a trust account or fiduciary account when received by lawyer/firm is placed in a place of safe keeping as soon as practical. Specifically, it is placed in:
 N/A Safe Deposit Box Office Safe Other _____
- 7) The lawyer/firm promptly notifies client of the receipt of any funds, securities or property belonging in whole or in part to client.

8) Where the funds received are a mix of trust funds and non-trust funds, the deposit is made to the trust account intact and the non-trust portion is withdrawn when the bank credits the account upon final settlement or payment of the instrument.

9) Written accountings are provided to client at completion of disbursement or at least annually if funds are held more than twelve (12) months.

10) If the lawyer/ firm holds any property or titles to property as security for the payment of any fees or other obligations owed to the lawyer other than for fees presently owed, the lawyer has indicated that the property or titles to property are held in trust as security for the obligation and not as a completed transfer of ownership to the lawyer.

11) The lawyer/firm has not earned interest on the trust account or fiduciary account which was not distributed to client or to IOLTA.

This the _____ day of _____ 20____.

Lawyer/Firm [print]

By _____
[Signature]

Sworn to and subscribed to before me this the _____ day of _____, 20_____

Notary Public

CPA Engagement Letter to Perform Agreed Upon Procedures For Lawyer

{Date}

{CPA/CPA firm name and address}

Dear _____ {Lawyer Name}:

This letter is to explain our understanding of the arrangements for, and the nature and limitations of, the services we are to perform pursuant to the *Agreed Upon Procedures for CPA Examination of Lawyers' Trust Accounts* ("Agreed Upon Procedures") relative to your exemption from the random audit of lawyer trust accounts authorized by 27 NCAC 1B, Rule .0128(b). **Unless specifically indicated in the Agreed Upon Procedures, a reference to a lawyer's trust account(s) includes all general trusts, dedicated trusts, and fiduciary accounts in which the lawyer holds funds for others.** You are solely responsible for compliance with the State Bar's rules regarding lawyers' trust accounts. The Agreed Upon Procedures are included as Attachment A to this letter. A copy of this letter and Attachment A will be sent to the North Carolina State Bar along with our report and your representation form.

Engagement Services

Our engagement will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Because the Agreed Upon Procedures included in Attachment A do not constitute an audit made in accordance with generally accepted auditing standards, we will not express an opinion on any of the specific elements, accounts, or items referred to in our report.

At the conclusion of our engagement, we will submit a report in letter form outlining the procedures performed and our findings resulting from the procedures performed. It is our understanding that any and all exceptions noted will be reported as a finding and that materiality will not be considered by _____ (hereafter {CPA/CPA firm}).

Our report will contain a statement that it is intended solely for the use of _____ (hereafter {lawyer/law firm}) and the North Carolina State Bar and should not be used for any other purpose.

The procedures that we will perform are not designed and cannot be relied upon to disclose fraud or illegal acts should any exist. However, we will inform the {lawyer/law firm} and the State Bar of any fraud or illegal acts that come to our attention.

Furthermore, the services are not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. However, we will communicate to {lawyer/law firm} and the State Bar any significant deficiencies or material weaknesses that become known to us during the course of the engagement.

Conditions and {Lawyer/Law Firm} Responsibilities

The sufficiency of these procedures is solely the responsibility of {lawyer/law firm} and the State Bar. We make no representation regarding the sufficiency of the procedures described above either for the purpose for which these services have been requested or for any other purpose.

If circumstances arise relating to the condition of {lawyer/law firm} records, the availability of appropriate evidence, indications of a significant risk of fraudulent transactions, or misappropriation of assets, which in our professional judgment prevent us from completing the engagement, we retain the unilateral right to take any course of action permitted by professional standards including declining to issue a report, or withdrawal from the engagement.

The assistance to be supplied by your personnel (if any) will be discussed and coordinated with {lawyer/law firm}. The timeliness and accuracy of this assistance is an essential condition to the completion of our services and issuance of our report. We understand that the final agreed upon procedures report is required to be issued no later than _____.

Fees, Costs, and Access to Documentation

Our fees are based on the time required by the individuals assigned to the engagement, plus direct expenses. We anticipate that the total fees will not exceed \$_____. Billings are due upon submission.

In the event we are requested or authorized by {lawyer/law firm} or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses with respect to our engagement, {lawyer/law firm} will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses as well as the fees and expenses of our counsel incurred in responding to such requests.

This letter constitutes the complete and exclusive statement of agreement between {CPA/CPA firm} and {lawyer/law firm} superseding all proposals, oral or written, and all other communications with respect to the terms of the engagement between the parties.

If this letter defines the engagement as {lawyer/law firm} understands it, please sign and date the enclosed copy and return it to us.

Sincerely,

{Print name, CPA/CPA firm}

Signature

Enclosures

CC: Trust Account Compliance Counsel, NC State Bar

This letter defines the engagement as _____(Lawyer/law firm) understands it.

(Signature)

(Date)

Agreed Upon Procedures for CPA Examination of Lawyers' Trust Accounts
("Agreed Upon Procedures")

The CPA/CPA firm agrees to perform the following tasks:

- Obtain an executed Lawyer's Representation Form required for exemption from random audit and be alert for any inconsistencies between the representations in the form and the results of the engagement (see next-to-last procedure to report such inconsistencies).
- Review a sample of bank statements, deposit slips, and checks for all trust account(s) to determine that they are labeled as a trust account(s) or fiduciary account(s).
- Review bank statements for the trust account(s) to determine whether the lawyer is using business-sized checks containing an Auxiliary-On-Us field in the MICR line which correlates to the check number.
- Test a sample of original trust account(s) deposit slips to determine if the client name is identified and the source of funds is indicated if source is other than the client (e.g., 3rd party payee).
- Test a sample of amounts received (deposits) to determine if client ledgers are being maintained for each person or entity from whom or for whom trust money is received.
- Test a sample of wire/electronic transfers into or out of the trust account(s) to determine if the client/beneficiary is identified.
- Test a sample of trust account disbursements to determine that the clients (from whose ledgers the funds are drawn) are identified on the checks.
- Review a sample of disbursements to determine that payees are specific persons or entities and that checks are not to "cash" or "bearer."
- In the course of our work, be alert for and report any transactions that do not appear relevant to typical trust receipts and disbursements.
- Review trust account bank statements to determine if check images are legible copies of the front and back and no smaller than 3 x 1 3/16 inches in dimension.
- Review trust account records to confirm that the lawyer has maintained cancelled checks, bank statements, and any other documents, including NSF notices, received from the bank regarding the account for a period of at least 6 years immediately preceding lawyer's most recent fiscal year end.
- Review the trust account(s) to determine that bank charges are paid from the lawyer's operating account or, if not, that the lawyer has deposited a reasonable amount of funds to the trust account specifically to pay for future bank service charges and that a trust account ledger is maintained to account for these funds.
- Examine individual client ledgers (or a computerized report showing all client ledger balances) to determine if any have been overdrawn (i.e. have negative balances).

- Review monthly trust account bank statement reconciliations to confirm that they are being performed.
- Review quarterly reconciliations of the general trust account(s) with the client ledgers pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.
- Determine whether the lawyer sent the bank a written directive requiring the bank to report to the Bar when an item drawn on the lawyer's trust account(s) is presented for payment against insufficient funds pursuant to Rule 1.15-2(k) of the Rules of Professional Conduct.
- Test a sample of lawyer's accountings required to be sent annually to clients for whom funds have been held for more than one year and for all clients whose funds have been fully disbursed (zero balance ledgers).
- Report on any inconsistencies noted between the Lawyer's Representation Form and the results of the foregoing procedures.
- Utilize the report format provided by the NC State Board of CPA Examiners to describe the work performed and to note any findings.

Report Pursuant to *Agreed Upon Procedures for CPA Examination of Lawyers' Trust Accounts*

To Lawyer/Law Firm and North Carolina State Bar:

We have performed the attached *Agreed Upon Procedures for CPA Examination of Lawyers' Trust Accounts* ("Agreed Upon Procedures") which were agreed-upon by Lawyer/Law firm and the North Carolina State Bar solely to assist the North Carolina State Bar in determining if Lawyer/Law firm has complied with the North Carolina State Bar's rules regarding lawyers' trust accounts for the 12 month period ended (month, day, year). Lawyer/Law firm is responsible for compliance with the North Carolina State Bar's rules regarding lawyers' trust accounts. This engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described above either for the purpose for which this report has been requested or for any other purpose.

[During the performance of the agreed-upon procedures we found no instances in which Lawyer/ Law firm failed to comply with the North Carolina State Bar's rules regarding trust accounts.]

OR

[We wish to report the following to you regarding Lawyer's/Law Firm's compliance with the North Carolina State Bar's rules regarding trust accounts:]

Apart from the performance of the Agreed Upon Procedures, we were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on whether Lawyer/Law firm complied with the North Carolina State Bar's rules regarding lawyers' trust accounts. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of Lawyer/Law firm and the North Carolina State Bar relative to Lawyer/Law firm's exemption from the random audit of lawyer trust accounts authorized by 27 NCAC 1B, Rule .0128(b).

[CPA/CPA firm Name]

[Signature]

[Date]