

## CERTIFICATE OF COMPLIANCE

### INSTRUCTIONS

The certificate of compliance for the year 2032 must be submitted by January 31, 2013.

**IMPORTANT INFORMATION** concerning compliance with trust accounting records and procedures, including the reporting form, appear immediately following this notice. All ACTIVE members of The State Bar of South Dakota must file the compliance form with The State Bar not later than January 31, 2013. This rule includes retired lawyers, lawyers engaged in teaching, banking, insurance, full-time government employees, etc. This reporting requirement does NOT include inactive lawyers nor does it include Judges (Federal or Unified Judicial System) who are full time and did not have private clients.

Tom Barnett  
Secretary-Treasurer

### TRUST ACCOUNT COMPLIANCE FORM INSTRUCTIONS

Immediately following these instructions, a model form has been reproduced. The form may be modified to accommodate multiple signatures where a number of or all partners in a law firm utilize a single trust account. Please type the name of the sole practitioner or, if using a common firm trust account, the names of all lawyers utilizing the trust account. For the balance of the form, fill in the blanks, check the spaces, or leave blank or mark n/a where appropriate.

1 - check (a), (b), or (c) if applicable

2 - self explanatory (usually appropriate for inactive or retired members)

3 - self explanatory (usually exclusive or full-time corporate, legal aid, or public sector lawyer. Please identify the employer.)

3(a)- self explanatory (usually appropriate for part-time Bankruptcy trustees)

4 - self explanatory (usually appropriate for the employee or associate of a law firm who does not have trust account writing authority.)

**At this point, inactive, retired, full-time corporate, legal aid, or public sector lawyers, and associates without trust account check writing authority may sign the form and stop.**

All others should have trust accounts and must provide the following information:

5 - state the name, address, and account number of trust account financial institution

6 - the blanks should be completed with the most recent monthly trust account reconciliation.

Keep in mind monthly reconciliations are required. For example, if this form were completed on 12-15-91, you would insert the closing date of the most recent bank statement (i.e. 11-30-91).

6(a)-(h), 7 - type or print yes or no in space provided. If you can answer "yes" to each of these questions, you are in compliance with the Supreme Court Rule 91-10. If you must answer any of these in the negative, you need to make changes in your trust accounting system. A negative answer will result in further inquiry.

8 - This question merely requires you to confirm that a monthly reconciliation was performed and if there were errors/inconsistencies in the reconciliation, to explain same. I remind you that the effective date of this rule was July 1, 1991. It is not too late to perform the monthly reconciliations from and after July 1, 1991, through the date of completion of this form; however, monthly reconciliations must be performed prospectively.

I have heard from a number of lawyers who have said that their trust account has an odd amount, such as \$4.54, which has been in the account for ages and the client has disappeared. The compliance report should so note the amount and reason (lawyer unable to disperse the sum of \$4.54 belonging to a client because client is not able to be located). Thereafter, if the amount remains constant (\$4.54 as in this example), no further explanation is necessary in subsequent compliance forms.

The rule does not require nor do we want the amounts held in trust, the identities of clients, or any other confidential information.

If all partners in a law firm use a common trust account, one form may be submitted provided all partners sign the form. Please type your name under your signature. This will avoid nuisance phone calls or letters trying to ascertain who signed the forms.

All lawyers must submit the compliance form no later than January 31, 2013. You may now start submitting the compliance forms. If you have any questions, please give me a call. TCB



**CERTIFICATE OF COMPLIANCE**  
**for 2032**

TO: The Secretary-Treasurer, The State Bar of South Dakota, 222 East Capitol Avenue, Pierre, SD 57501

Dear Sir:

I/we (Please list all persons signing the form here) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

a member(s) of the State Bar of South Dakota certify that during the 12-month period preceding the date of this report: (check the following items where applicable and/or fill in the blanks)

1. I (we) have engaged in the private practice of law in South Dakota as:

\_\_\_\_ (a) a sole practitioner;

\_\_\_\_ (b) a partner or shareholder of a firm practicing under the name of

\_\_\_\_; \_\_\_\_\_;

\_\_\_\_ (c) an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of

\_\_\_\_; \_\_\_\_\_,

and I maintain separate books, records and accounts showing all legal business performed by me.

\_\_\_\_ 2. I have not engaged in the practice of law in South Dakota, and I have neither handled nor been responsible for either clients' trust funds or clients' trust property in South Dakota.

\_\_\_\_ 3. I have practiced law in South Dakota exclusively as an employee of (designate name of government agency, corporation, or other non-member of the Bar) \_\_\_\_\_

\_\_\_\_; \_\_\_\_\_,

and I do not handle or become responsible for money or property in a lawyer-client relationship, other than money or property received in the course of official duties and disposed of in accordance with regulations and practices of (designate name of government agency).

\_\_\_\_ a. I have served as a trustee in one or more cases under Title 11 of the United States Code, and I am accountable for all funds I handled in connection therewith to the Office of the United States Trustee, which office is statutorily charged with the responsibility for reviewing and supervising my trust operations; therefore, my handling of such funds is not separately accounted for herein in connection with my private practice of law, and I further certify that I am in compliance with all such accounting requirements of said Office.

\_\_\_\_ 4. I have engaged in the practice of law in South Dakota as an employee or as an associate of a sole practitioner or of a firm, as the case may be, practicing under the name of \_\_\_\_\_

\_\_\_\_\_

and to the best of my knowledge all legal business performed by me is shown in the books, records and accounts of such sole practitioner or firm.

(Only lawyers checking categories 2, 3, 3 a, or 4 may sign here. See instructions.)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Full Name (Print or Type)

Business Address \_\_\_\_\_

\_\_\_\_\_  
Date

(Attorneys checking categories 1a, 1b, or 1c must answer the following questions. See instructions.)

5. My (our) trust account(s) or the trust account(s) of the firm or association of which I am a partner or shareholder is (are) at the \_\_\_\_\_

\_\_\_\_\_  
(name and address of banking institution)  
and bears the following name(s) and number(s) \_\_\_\_\_

6. During the fiscal period ended \_\_\_\_\_, to the best of my (our) knowledge I (we), or the firm of which I am a member, as the case may be, maintained books, records and accounts to record all money and trust property received and disbursed in connection with my/our practice, and as a minimum I/we maintained:

- a. A separate bank account or accounts located in \*South Dakota, in the name of the lawyer or law firm and clearly labeled and designated a "trust account." ..... \_\_\_\_\_ (Yes or No)
- b. Original or duplicate deposit slips and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received, and specific identification of the client or matter for whom the funds were received. .... \_\_\_\_\_ (Yes or No)
- c. Original canceled checks or copies of both sides of the original checks produced through truncation or check imaging or the equivalent, for all trust disbursements. .... \_\_\_\_\_ (Yes or No)
- d. Other documentary support for all disbursements and transfers from the trust account. .... \_\_\_\_\_ (Yes or No)
- e. A separate trust account receipts and disbursements journal, including columns for receipts, disbursements, and the account balance, disclosing the client, check number, and reason for which the funds were received, disbursed or transferred. .... \_\_\_\_\_ (Yes or No)
- f. A separate file or ledger, with an individual card or page for each client and matter, showing all individual receipts, disbursements and any unexpended balance. .... \_\_\_\_\_ (Yes or No)
- g. All bank statements for all trust accounts. .... \_\_\_\_\_ (Yes or No)
- h. Complete records of all funds, securities and other properties of a client coming into my/our possession, and rendered appropriate accounts to my/our clients regarding them. .... \_\_\_\_\_ (Yes or No)

(\*An out of state member may strike "South Dakota" and insert the state where his/her trust account is located.)

7. During the same fiscal period identified in section 6 above, I, or the firm of which I am a member, complied with the required trust accounting procedures, and as a minimum I/we prepared monthly trust comparisons, including bank reconciliations and an annual detailed listing identifying the balance of the unexpended trust money held for each client or matter. . . . . \_\_\_\_\_ (Yes or No)
8. In connection with section 7 above, I or the firm of which I am a member, have completed the following procedures during the fiscal period herein: compared each month the total of trust liabilities and the total of each trust bank reconciliation, and there were (check one of the following)  
 \_\_\_\_\_ no differences between the totals, excepting those determined to be the result of bank error;  
 \_\_\_\_\_ differences. (Give full particulars below, identifying the months in which there were differences, the amounts involved, and the reason for each item contributing to a difference. Attach additional pages if necessary.)

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9. \_\_\_\_\_ \*The undersigned lawyer(s) do not have professional liability insurance; or  
 \_\_\_\_\_ The undersigned lawyer(s) have professional liability insurance, the name of the insurance carrier, policy number and limits are as follows:

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I am a member of the State Bar of South Dakota filing this report, and to the best of my knowledge and belief the facts as reported herein are accurate, and I certify that I have at all material times been in compliance with Rule 1.15 of the Rules of Professional Conduct entitled Safekeeping Property and SDCL 16-18-20.1 and 16-18-20.2.

(All partners, shareholders, or associates checking categories 1a, 1b, or 1c must sign here.)

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|  |  |

(Signatures)

(Date)

\*Additional signature and attachment is needed if responding lawyer checked box 9(A) : The undersigned lawyer(s) not having insurance, do hereby certify that pursuant to Rule 1.4(c), I have advised my clients of the lack of professional liability insurance during the reporting period and I have attached hereto a copy of my law office letterhead disclosing the lack of insurance, in the required format, pursuant to Rule 7.5 of the Rules of Professional Responsibility.

All Responding Lawyer Signatures:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Date: \_\_\_\_\_

\*If you checked box 9(A), you must attach a representative copy of the letterhead you used to disclose the lack of insurance to your clients.