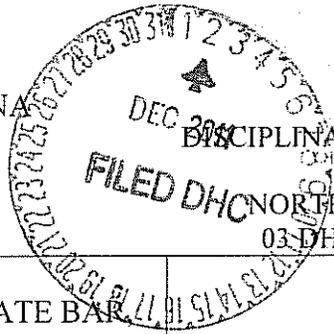


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
03 DHC 12, 10 DHC 9, 11 BSR 5

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

MOHAMMED M. SHYLLON, Attorney,

Defendant/Petitioner

CONSENT ORDER OF DISCIPLINE &  
REINSTATEMENT

THIS MATTER came before the hearing panel upon the filing of a petition by Petitioner seeking reinstatement from the active suspension imposed by the Disciplinary Hearing Commission's Order of Discipline in cases nos. 03 DHC 12 and 10 DHC 9, and the filing of a response by Plaintiff objecting to Petitioner's petition for reinstatement. These matters were considered by a hearing panel of the Disciplinary Hearing Commission composed of Sharon B. Alexander, Chair, Robert F. Siler and Karen B. Ray pursuant to 27 N.C.A.C. 1B § .0125(b) of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten. Defendant/Petitioner, Mohammed M. Shyllon, was represented by Douglas J. Brocker. Petitioner waives a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this order and to the discipline imposed. Petitioner waives any right to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this Order.

Based upon Shyllon's petition and supporting materials, the State Bar's response, and the consent of the parties, the hearing panel hereby finds by clear, cogent and convincing evidence, the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant/Petitioner, Mohammed M. Shyllon ("Defendant" or "Petitioner" or "Shyllon"), was admitted to the North Carolina State Bar on 22 August 1976. At all times referred to herein, Shyllon was subject to the rules, regulations and Rules of

Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. Shyllon was suspended from the active practice of law in the State of North Carolina pursuant to the 12 April 2007 Consent Order of Discipline issued by the Disciplinary Hearing Commission of the North Carolina State Bar (“DHC”) in case number 03 DHC 12 (hereinafter, “the 2007 Order of Discipline”).

4. Shyllon was further suspended from the active practice of law in the State of North Carolina pursuant to the 10 February 2010 Consent Order of Discipline issued by the DHC in case numbers 03 DHC 12 and 10 DHC 9 (hereinafter, “the 2010 Order of Discipline”). The 2010 Order of Discipline resolved all remaining conditions of Shyllon’s reinstatement from the 2007 Order of Discipline and, following the new period of active suspension of Shyllon’s law license, set out new conditions which Shyllon needed to comply with prior to reinstatement.

5. Shyllon filed a petition for reinstatement on 18 October 2011. Shyllon, through counsel, recited actions taken to comply with the conditions in the 2010 Order of Discipline and attached documentation in support of his statements. Shyllon appropriately filed the petition with the Secretary of the North Carolina State Bar and served a copy upon the Office of Counsel of the State Bar.

6. After reviewing Shyllon’s petition, Plaintiff timely filed a response objecting to Shyllon’s reinstatement by the Secretary of the North Carolina State Bar due to Shyllon’s violation of one of the conditions for reinstatement imposed by the 2010 Order of Discipline.

7. The 2010 Order of Discipline required Shyllon to comply with a number of conditions prior to reinstatement, including but not limited to disbursing to the rightful owner(s) all identified funds remaining in his trust account and escheating all unidentified funds to the State.

8. The 2010 Order of Discipline also required that Shyllon not violate any of the Rules of Professional Conduct during the period of suspension.

9. In or around June 2011, Shyllon began disbursing the funds retained in his trust account as required by the 2010 Order of Discipline.

10. Prior to disbursing the entrusted funds in his trust account, Shyllon did not reconcile the trust account’s actual balance with the balance reflected in Shyllon’s records.

11. At the time Shyllon began disbursing the entrusted funds in June 2011, his trust account’s actual balance was approximately \$82.00 less than the balance reflected in Shyllon’s records due to research fees charged by Shyllon’s bank against his trust account in March 2009 and July 2009.

12. Because Shyllon did not check his actual trust account balance prior to disbursing the funds in his trust account, Shyllon eventually attempted to disburse funds from his trust account against insufficient funds. Shyllon's bank honored the check drawn against insufficient funds.

13. Upon learning that he had disbursed against insufficient funds, Shyllon promptly reimbursed his trust account and provided Plaintiff with documentation explaining his error.

14. Between March 2009 and August 2011, Shyllon did not perform monthly or quarterly reconciliations of the funds contained in his trust account.

15. Shyllon was actively suspended between March 2009 and August 2011 and, as a result, there were no transactions in Shyllon's trust account other than the two research fees in 2009.

Based upon the foregoing Findings of Fact, the panel enters the following

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant/Petitioner, Mohammed M. Shyllon, and over the subject matter of this proceeding.

2. Shyllon's conduct, as set out in the Findings of Fact above, constitutes a violation of the Rules of Professional Conduct as follows:

- a. By failing to check the actual balance of his trust account prior to disbursing entrusted funds, and by failing to reconcile his trust account records with the actual balance of funds contained therein from March 2009 to August 2011, Shyllon failed to properly reconcile his trust account in violation of Rule 1.15-3(d).

3. Shyllon's violation of Rule 1.15-3(d) violates a condition of reinstatement set forth in the 2010 Order of Discipline in that Shyllon violated the Rules of Professional Conduct during his suspension.

Based upon the foregoing Findings of Fact, Conclusions of Law, and the consent of the parties, the hearing panel also finds by clear, cogent, and convincing evidence the following

#### ADDITIONAL FINDINGS REGARDING REINSTATEMENT

1. Shyllon's violation of Rule 1.15-3(d) as described above, and therefore his violation of a condition of the 2010 Order of Discipline, is troubling in that Shyllon's original discipline in case no. 03 DHC 12 resulted from his failure to properly maintain trust account records in accordance with the Rules of Professional Conduct. Shyllon's

violation of Rule 1.15-3(d) demonstrates his indifference to his obligations and responsibilities under the Rules of Professional Conduct.

2. Shyllon has taken additional steps to help ensure that no violations of the Rules concerning his trust account will occur in the future. Shyllon has purchased accounting software that is designed for use by law firms and is designed to track specific client balances in trust accounts. Shyllon has also arranged to have a licensed certified public accountant (“CPA”) assist him with his trust account and reconcile his trust account and specific client balances on at least a monthly basis.

3. Shyllon’s prompt attention and response to both the overdraft notice and the State Bar’s inquiries, as well as Shyllon’s efforts to install mechanisms in his law practice that should prevent similar errors from reoccurring, demonstrate Shyllon’s present understanding of the significance of his misconduct as well as his responsibilities under the Rules of Professional Conduct.

4. Shyllon has otherwise provided the State Bar with satisfactory evidence of his compliance with all other conditions imposed by the 2010 Order.

5. Shyllon fully cooperated with the State Bar’s investigation of his disbursement of entrusted funds from his trust account against insufficient funds.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Reinstatement, the hearing panel enters the following

#### CONCLUSIONS REGARDING REINSTATEMENT

1. Pursuant to 27 N.C. Admin. Code 1B § .0125(b)(8), a hearing panel considering a petition for reinstatement from suspension can impose additional sanctions in the event violations of the 2010 Order of Discipline are found. Shyllon’s failure to comply with the condition in the 2010 Order of Discipline requiring that he not violate the Rules of Professional Conduct during his suspension warrants additional sanctions in the form of an extension of the suspension currently imposed on his license to practice law.

2. Shyllon’s efforts in rectifying the violation are such, however, that the suspension announced herein should be stayed for a period of time with conditions imposed upon Shyllon designed to ensure protection of the public and continued compliance with the Rules of Professional Conduct.

3. This panel notes the 2010 Order of Discipline imposed as a condition upon reinstatement that Shyllon be subjected to random audits by the State Bar for three and a half (3.5) years after reinstatement, with no more than two audits per year.

4. This panel finds and concludes that the sanction announced below adequately acknowledges Shyllon’s failure to comply with both the Rules of Professional

Conduct and his failure to comply with the 2010 Order of Discipline, and adequately protects the public from future misconduct by Shyllon.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings and Conclusions Regarding Reinstatement, the hearing panel enters the following

#### ORDER

1. The suspension of the law license of Petitioner, Mohammed M. Shyllon, imposed by the 2010 Order of Discipline is hereby extended for an additional one (1) year.

2. For the next three and a half (3.5) years from entry of this Order, Shyllon shall permit audits of his trust and operating accounts by the North Carolina State Bar. Such audits will be conducted at Shyllon's expense, and all costs incurred during the course of the audit shall be paid by Shyllon within thirty (30) days of the assessed costs being served upon Shyllon. The North Carolina State Bar will not exercise the right to audit the Shyllon's bank accounts more than twice a year. Such limitation on random audits will not preclude the North Carolina State Bar from conducting any audits for cause pursuant to the Rules of Professional Conduct. Furthermore, any information or documentation gained by the North Carolina State Bar while conducting said audit(s) may result in further disciplinary proceedings being brought against Shyllon.

3. This period of suspension is stayed for three years upon Shyllon's compliance with all of the Rules of Professional Conduct. Furthermore, the stay of this suspension shall continue upon Shyllon's compliance with the following conditions:

a. For the first two years of the stayed period of suspension, Shyllon shall have his trust account audited on a quarterly basis by a Certified Public Accountant ("CPA") approved in advance by the Office of Counsel. The CPA must examine all bank accounts into which Shyllon has deposited any entrusted funds for compliance with the Rules of Professional Conduct. The CPA must report quarterly to the Office of Counsel concerning the compliance of Shyllon's account(s) with the Rules of Professional Conduct, including but not limited to any accounting irregularities, deficiencies, and/or any deviance from the requirements of the Rules of Professional Conduct, with a copy of the report sent simultaneously to Shyllon. The CPA's reports shall include copies of all documents reviewed in generating the report and are due no later than 30 days after the end of each quarter (first quarter's report due April 30, second quarter's report due July 30, third quarter's report due October 30, and fourth quarter's report due January 30). It is Defendant's sole responsibility to ensure the CPA completes and submits the reports as required herein. Failure of the CPA to submit any report required by this Order shall be grounds to lift the stay and activate the suspension.

b. If any of the CPA's reports note any irregularities, deficiencies, or deviance from requirements of the Rules of Professional Conduct concerning Defendant's handling of entrusted funds, Defendant shall take remedial action and provide proof of such to the Office of Counsel of the State Bar and to the CPA within thirty (30) days of the date of the CPA's report.

c. If any of the CPA's reports note any irregularities, deficiencies, or deviance from requirements of the Rules of Professional Conduct concerning Defendant's handling of entrusted funds, the CPA shall provide a subsequent report regarding whether Defendant's remedial actions were sufficient and whether Defendant's account(s) has been brought into compliance with the Rules of Professional Conduct. The CPA shall provide this report regarding remedial measures to the Office of Counsel within thirty (30) days of Defendant's provision of proof of remedial action.

d. All evaluations, reports, and services of the CPA as described herein will be at Defendant's sole expense.

e. During the last year of the stayed period of suspension, Defendant shall provide to the Office of Counsel on a quarterly basis copies of his monthly and quarterly reconciliations and bank statements for the immediately preceding quarter, and copies of all client ledgers created during or otherwise associated with the quarter's reconciliations. Such records shall be due no later than 30 days after the end of each quarter (first quarter's records due April 30, second quarter's records due July 30, third quarter's records due October 30, and fourth quarter's report due January 30) and shall be produced to the Office of Counsel at Defendant's sole expense. Failure of Defendant to submit any of the records required by this Order shall be grounds to lift the stay and activate the suspension.

f. Shyllon shall pay the costs and administrative fees of this proceeding as assessed by the Secretary of the North Carolina State Bar within 30 days of notice of the costs being mailed to him at his address of record.

g. Shyllon shall keep the North Carolina State Bar Membership Department advised of his current business and home physical address.

h. Shyllon shall respond to all communications received from the North Carolina State Bar within 30 days of receipt or by the deadline stated in the communication, whichever is sooner.

i. Shyllon shall not violate the Rules of Professional Conduct or the laws of the United States or any state.

4. If Shyllon fails to comply with any of the conditions stated in Paragraph 3 above, then the stay of the suspension of his law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. If the stay granted herein is lifted or the suspension of Shyllon's license is activated for

any reason, before a subsequent stay of the suspension can be entered Shyllon must demonstrate by clear, cogent, and convincing evidence his compliance with 27 N.C.A.C. 1B § .0124 and paragraphs 3(f) – (i) above during his active suspension.

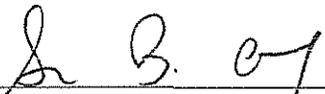
5. Shyllon's license to practice law is reinstated to active status with the North Carolina State Bar subject to the stayed suspension and conditions announced herein. Shyllon's reinstatement is effective as of 1 January 2012.

6. All costs and administrative fees of this action are taxed to Petitioner. Petitioner must pay the costs and administrative fees of this action within 30 days of service of the statement of costs by the Secretary.

7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

8. Nothing in this Order shall prohibit the State Bar from investigating and pursuing disciplinary action separate from this Order as warranted.

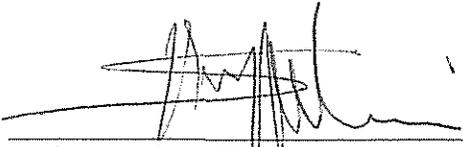
Signed by the Chair with the consent of the other hearing panel members, this the 02 day of December, 2011.

  
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Sharon B. Alexander, Chair  
Disciplinary Hearing Panel

CONSENTED TO BY:

  
\_\_\_\_\_  
Brian P.D. Oten  
Deputy Counsel  
North Carolina State Bar  
Counsel for Plaintiff

  
\_\_\_\_\_  
Douglas J. Brocker  
Counsel for Defendant

  
\_\_\_\_\_  
Mohammed M. Shyllon  
Defendant