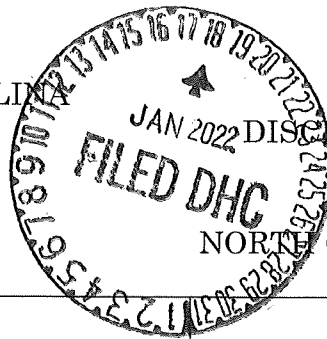


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING
COMMISSION
OF THE
NORTH CAROLINA STATE BAR
22 DHC 6

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

COMPLAINT

ALLAN R. GRIMSLEY, Attorney,

Defendant

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina 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 North Carolina General Statutes and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Allan R. Grimsley, was admitted to the North Carolina State Bar in August 1999, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar, and the Rules of Professional Conduct.

3. During the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Nags Head, Dare County, North Carolina.

4. Until January 2019, Defendant maintained an attorney trust account with BB&T (now Truist) Bank, ending in no. 3274 ("trust account").

5. Defendant also maintained with BB&T (now Truist) Bank an operating account ending in no. 3266 ("operating account"), a merchant account ending in no. 3282 ("merchant account"), and an overhead account ending in no. 2960 ("overhead account").

6. In connection with his law practice, Defendant received payments from clients that represented a combination of earned fees to which Defendant was entitled and entrusted funds.

7. Prior to January 2019, Defendant¹ deposited all credit card payments from clients into his merchant account and all cash or check payments from clients into his operating account and then transferred into the trust account any portion of a client's payment that constituted entrusted funds.

Client T. Downs

8. In September 2017, T. Downs hired Defendant to represent him in a criminal case and paid Defendant a sum that included Defendant's fee plus \$60.00 in trust to pay restitution.

9. The \$60.00 of entrusted funds from Downs were initially deposited into Defendant's operating account and then transferred into the trust account.

10. On 22 January 2018, Defendant transferred Downs' \$60.00 of entrusted funds from the trust account back into his operating account.

11. The beginning balance in Defendant's operating account on 22 January 2018 was -\$1,529.99.

12. Because of the negative balance in the operating account at the time of the transfer, Downs' \$60.00 was immediately appropriated for the benefit of Defendant and/or Defendant's firm.

13. On 22 January 2018, Defendant was not entitled to use any portion of Downs' \$60.00 for the benefit of anyone other than Downs.

14. On 26 January 2018, Defendant transferred \$60.00 from his operating account into his trust account and then issued a \$60.00 trust account check to the Town of Nags Head to pay Downs' restitution.

Client A. Baer

15. In January 2018, A. Baer hired Defendant to represent him and paid Defendant a sum that included \$1,300.00 of entrusted funds.

16. Baer's \$1,300.00 was initially deposited into Defendant's merchant account and then transferred into Defendant's trust account.

17. On 25 January 2018, Defendant transferred \$1,000.00 of Baer's entrusted funds from the trust account into his operating account.

¹ Throughout this pleading, allegations that Defendant made deposits, withdrawals, or transfers are intended to include transactions made by employees at Defendant's direction and under his supervision.

18. The beginning balance in Defendant's operating account on 25 January 2018 was -\$1,989.22.

19. Because of the negative balance in the operating account at the time of the transfer, Baer's \$1,000.00 was immediately appropriated for the benefit of Defendant and/or Defendant's firm.

20. On 25 January 2018, Defendant was not entitled to use any portion of Baer's entrusted funds for the benefit of anyone other than Baer.

21. In February 2018, Defendant transferred \$700.00 from his operating account into his trust account and then issued a \$942.50 trust account check to the Clerk of Court on behalf of Baer.

Client H. Eastman

22. In January 2018, H. Eastman hired Defendant to represent him and paid Defendant a sum that included \$1,463.00 of entrusted funds.

23. Eastman's \$1,463.00 was initially deposited into Defendant's merchant account and then transferred into Defendant's trust account.

24. On 26 January 2018, Defendant transferred Eastman's \$1,463.00 of entrusted funds from the trust account into his operating account.

25. The beginning balance in Defendant's operating account on 26 January 2018 was -\$1,564.22.

26. Because of the negative balance in the operating account at the time of the transfer, Eastman's \$1,463.00 was immediately appropriated for the benefit of Defendant, Defendant's firm, and/or Defendant's other clients.

27. On 26 January 2018, Defendant was not entitled to use any portion of Eastman's entrusted funds for the benefit of anyone other than Eastman.

Client A. Baskin

28. In January 2018, A. Baskin hired Defendant to represent him and paid Defendant a sum that included \$1,000.00 of entrusted funds.

29. Baskin's \$1,000.00 was initially deposited into Defendant's merchant account and then transferred into Defendant's trust account.

30. On 19 January 2018, Defendant transferred Baskin's \$1,000.00 of entrusted funds from the trust account into his operating account.

31. The beginning balance in Defendant's operating account on 19 January 2018 was -\$1,484.76.

32. Because of the negative balance in the operating account at the time of the transfer, Baskin's \$1,000.00 was immediately appropriated for the benefit of Defendant, and/or Defendant's firm.

33. On 19 January 2018, Defendant was not entitled to use any portion of Baskin's entrusted funds for the benefit of anyone other than Baskin.

34. In April 2018, Defendant transferred \$450.00 from his operating account into his trust account and then issued a \$450.00 trust account check to the DMV on behalf of Baskin.

Client J. Capps

35. In June 2018, J. Capps hired Defendant to represent him and paid Defendant a sum that included \$1,525.00 of entrusted funds.

36. Capps' \$1,525.00 was initially deposited into Defendant's operating account and then transferred into Defendant's trust account.

37. On 26 June 2018, Defendant transferred \$175.00 of Capps' entrusted funds from his trust account back into his operating account.

38. On 2 July 2018, Defendant transferred the remaining \$1,350.00 of Capps' entrusted funds back into his operating account.

39. Between 2 July 2018 and 5 July 2018, the balance in Defendant's operating account fell below \$1,350.00, meaning Defendant used a portion of Capps' entrusted funds for the benefit of Defendant and/or Defendant's firm.

40. Between 2 July 2018 and 5 July 2018, Defendant was not entitled to use any portion of Capps' entrusted funds for the benefit of anyone besides Capps.

41. On 6 July 2018, Defendant transferred \$1,350.00 from his operating account into his trust account and then issued a \$1,350.00 trust account check to Capps.

Audit & Grievance

42. On 18 January 2019, the State Bar auditor notified Defendant that he was to be the subject of a random audit of his trust account.

43. On 18 January 2019, Defendant closed his trust account.

44. The random audit of Defendant's trust account occurred on 6 February 2019 and established that Defendant:

- (a) did not deposit entrusted funds received by credit card directly into a trust account;
- (b) did not, on a quarterly basis, reconcile his trust account by comparing the general ledger balance, the adjusted bank balance, and the total of all client ledger balances;
- (c) advanced or over-disbursed funds from the trust account;
- (d) did not maintain copies of the front and back of cancelled checks;
- (e) did not review, sign, date, and retain copies of monthly or quarterly trust account reconciliations; and
- (f) did not generate and maintain signed dated reports documenting that he reviewed trust account transactions monthly and quarterly, as required by the Rules.

45. The auditor provided Defendant a Corrections Request Form which noted the deficiencies revealed by the audit and the documentation necessary to show he had corrected those deficiencies.

46. Defendant was directed to provide his Corrections Request Form and responsive documentation to the State Bar within 45 days of the date of the audit.

47. Defendant did not submit the Corrections Request Form or responsive documentation to the State Bar, so a grievance file was opened (file no. 19G0511).

48. During the investigation of grievance no. 19G0511, Defendant represented to the State Bar that certain account documentation requested by the Bar was unavailable.

49. Specifically, Defendant stated that:

- (a) receipts for credit card payments had all been shredded when his former firm dissolved in March 2019, and
- (b) records identifying the beneficial owners of funds that were electronically transferred to and from his trust account became unavailable to him one year after he closed the account because the bank did not maintain them.

50. Defendant's statements in paragraph 49 above regarding the unavailability of records was false.

51. During the investigation of file no. 19G0511, Defendant represented to the State Bar that he had no knowledge of two attorney trust accounts that were opened in his name in July 2019 and September 2019.

52. Defendant's statement that he had no knowledge of the two trust accounts opened in 2019 was false.

53. During the investigation of grievance no. 19G0511, the State Bar asked Defendant to produce records (1) listing the source and date of receipt of entrusted funds from clients and (2) demonstrating his entitlement to funds that were withdrawn from the trust account for his benefit.

54. Defendant did not produce to the State Bar the records described in paragraph 53 above.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By depositing all funds received from clients (including entrusted funds) into either his operating account or his merchant account, Defendant failed to deposit entrusted funds promptly into his trust account in violation of Rule 1.15-2(b);
- (b) By receiving payments from clients that were a combination of earned fees and entrusted funds and depositing them into his operating or merchant account rather than his trust account, Defendant failed to deposit mixed funds intact in violation of Rule 1.15-2(g);
- (c) By transferring entrusted funds into his operating account and using them to pay personal and/or firm expenses, Defendant used entrusted funds for personal benefit and/or for the benefit of someone other than the legal or beneficial owner of the funds in violation of Rule 1.15-2(k), committed a criminal act reflecting adversely on his honesty, trustworthiness, or fitness as a lawyer in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (d) By failing to maintain copies of the front and back of cancelled trust account checks, Defendant failed to maintain required records in violation of Rule 1.15-3(b);
- (e) By failing to conduct quarterly reconciliations, failing to review, sign, and date monthly reconciliations, and failing to conduct quarterly transaction reviews, Defendant failed to complete required trust account reviews in violation of Rule 1.15-3(d);
- (f) By representing to the State Bar that certain trust account records had been

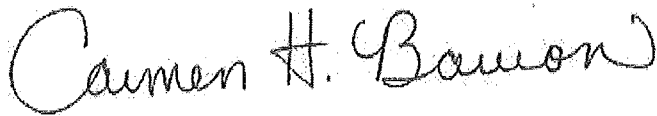
destroyed or rendered unavailable and stating that he had no knowledge of trust accounts opened in his name, Defendant knowingly made false statements of material fact in connection with a disciplinary matter in violation of Rule 8.1(a); and

- (g) By knowingly failing to produce records (1) listing the source and date of receipt of entrusted funds from clients and (2) demonstrating his entitlement to funds that were withdrawn from the trust account for his benefit, Defendant knowingly failed to respond to a lawful request for information from a disciplinary authority in violation of Rule 8.1(b).

WHEREFORE, Plaintiff prays that:

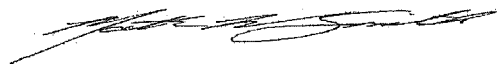
1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 and 27 N.C.A.C. 1B.0114 as the evidence on hearing may warrant;
2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and
3. For such other and further relief as the Hearing Panel deems appropriate.

This, the 18th day of January, 2022.



Carmen Hoyme Bannon, Deputy Counsel
State Bar No. 33998
Attorney for Plaintiff
North Carolina State Bar
P.O. Box 25908
Raleigh, N.C. 27611
(919) 828-4620

Signed pursuant to 27 N.C. Admin. Code 1B
.0113(m) and .0105(a)(10).



Matthew W. Smith, Chair
Grievance Committee