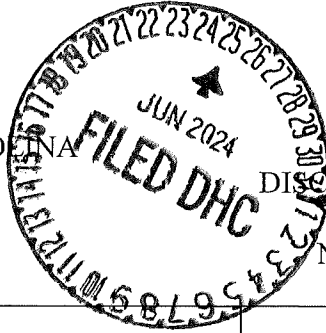


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
24 DHC 10

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ANTWOINE L. EDWARDS, Attorney,

Defendant

CONSENT
ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of DeWitt F. McCarley, Chair, and members William A. Oden, III and Synthia Scott Kearney. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant, Antwoine L. Edwards, was represented by Whitney S. Waldenberg.

The parties stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order. The parties consent to the discipline imposed by this Order. By consenting to this Order, Defendant knowingly, freely, and voluntarily waives his right to appeal this Consent Order or to challenge in any way the sufficiency of the findings.

Based upon the stipulated facts and upon 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 (“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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Antwoine L. Edwards (“Edwards”), was admitted to the North Carolina State Bar in 2005, 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 all or part of the relevant periods referred to herein, Edwards was engaged in the practice of law in the State of North Carolina and maintained a law office in Fayetteville, Cumberland County, North Carolina.

4. Edwards was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

5. At all times pertinent to this matter, Edwards maintained an attorney trust account at Wells Fargo Bank, N.A. with an account number ending in the numbers x4618 (“trust account”).

6. On July 28, 2020, Edwards deposited a total of \$157,948.93 into the trust account for three clients, including \$96,448.93 of personal injury settlement funds for client G. Cacho.

7. On the receipt Edwards received from the bank, it stated that \$400.00 of the deposit was included in his available balance for the trust account and that \$157,548.93 would be available on Wednesday, July 29, 2020.

8. On July 27, 2020, prior to depositing the settlement funds for G. Cacho into his trust account, Edwards gave G. Cacho trust account check #1486 in the amount of \$59,000.00 as her disbursement from her personal injury settlement.

9. On July 27, 2020, G. Cacho attempted to negotiate check #1486.

10. On July 27, 2020, the balance of Edwards’ trust account was \$6,141.63.

11. If the bank had honored check #1486, the trust account would have had a negative balance of -\$52,858.37.

12. The bank returned check #1486 unpaid due to insufficient funds in the trust account.

13. A grievance file was opened concerning the above-described events, file 20G0546.

14. On July 31, 2020, the State Bar sent Edwards a letter of notice in grievance file 20G0546.

15. In the letter of notice dated July 31, 2020 that was sent to Edwards in grievance file 20G0546, the State Bar asked Edwards to include with his response his most recent quarterly three-way trust account reconciliation conducted pursuant to Rule 1.15-3(d)(2)¹ with supporting documents.

16. On September 8, 2020, Edwards provided his response to the letter of notice in grievance file 20G0546.

17. With his response, Edwards provided a three-way trust account reconciliation for the second quarter of 2020, ending June 30, 2020.

18. The report date listed on the reconciliation report was September 2, 2020, and the date at the bottom for when Edwards signed was September 7, 2020.

¹ Previously codified as Rule 1.15-3(d)(1).

19. Some of the supporting documents for the reconciliation contained a date at the bottom showing when they were printed. That date was August 12, 2020.

20. Edwards did not conduct the three-way trust account reconciliation required quarterly under Rule 1.15-3(d)(2) for the second quarter of 2020 until after receiving the State Bar's request for the reconciliation.

21. On November 4, 2020, the State Bar asked Edwards to provide his quarterly three-way reconciliation for the third quarter of 2020 by November 16, 2020.

22. On November 16, 2020, Edwards provided a three-way trust account reconciliation for the third quarter of 2020, ending September 30, 2020.

23. The report date on the third quarter 2020 reconciliation report was November 6, 2020.

24. Edwards did not put a date for when he signed the third quarter 2020 reconciliation report.

25. Some of the check images for checks clearing the trust account in September 2020 provided with the third quarter 2020 reconciliation report contained a date at the top showing when they were printed. That date was November 14, 2020.

26. Edwards did not conduct the three-way trust account reconciliation required quarterly under Rule 1.15-3(d)(2) for the third quarter of 2020 until after receiving the State Bar's request for the reconciliation.

27. In his December 3, 2020 response to the State Bar, Edwards stated the third quarter 2020 quarterly reconciliation was not completed until November 6, 2020 "because Mr. Pikul [Edwards' CPA] and his staff were waiting on documents from me."

28. The three-way reconciliation for the second quarter of 2020 showed two negative client balances where more funds had been disbursed from the trust account than were present for the respective clients in the trust account, as follows: negative $-\$.32$ for client C. Ortega from 2016 and negative $-\$12.60$ for client L. Alejo from 2018.

29. Edwards was not aware of these over-disbursements from 2016 and 2018 until the three-way reconciliation for the second quarter of 2020 and an accompanying audit were completed in September 2020.

30. Edwards had not timely conducted the quarterly three-way reconciliations from 2016 to September 2020 that would have revealed to him the over-disbursements for clients C. Ortega and L. Alejo.

31. On September 8, 2020, Edwards deposited funds into his trust account to cure the deficits from these over-disbursements in his trust account.

32. The three-way reconciliation and supporting documents for the second quarter of 2020 showed that as of June 30, 2020, in 14 clients' cases from 2016-2018, Edwards had failed to timely make disbursements due to medical providers, other third parties, and to a client.

33. On September 8, 2020, Edwards issued checks to make the overdue disbursements in these 14 clients' cases to the medical providers, third parties, and the client.

34. The three-way reconciliation and supporting documents for the third quarter of 2020 showed that, as of September 30, 2020, two trust account checks issued in 2017 (checks 1127 and 1174) and one trust account check issued in 2019 (check 1418) were still outstanding.

35. In his December 3, 2020 response, Edwards stated he would be sending notice to the payees of the outstanding checks and would pursue escheatment if appropriate.

36. In his December 3, 2020 response, Edwards stated he had developed a schedule with his CPA that monthly reconciliations would occur no later than the 10th day of the following month and quarterly reconciliations would occur no more than 30 days from the end of each quarter.

37. In his December 3, 2020 response to the State Bar, Edwards stated, "I would like the opportunity to continue demonstrating compliance with the trust rules through completion of the Trust Account Compliance Program, offered by the State Bar."

38. Edwards was referred to the Trust Account Compliance Program (TACP) and accepted the referral on January 25, 2021.

39. Edwards was provided a Trust Account Compliance Plan itemizing requirements to be satisfied during his participation in the Program along with applicable deadlines.

40. Under the Trust Account Compliance Plan, Edwards was required to provide the Trust Account Compliance Counsel with quarterly three-way reconciliations with supporting documentation and with certification of monthly reconciliations performed for each month in the quarter for the next subsequent eight quarters by the following deadlines: 30 April 2021, 30 July 2021, 30 October 2021, 30 January 2022, 30 April 2022, 30 July 2022, 30 October 2022, and 30 January 2023.

41. The deadlines set under the Trust Account Compliance Plan were consistent with the schedule Edwards stated he and his CPA had developed to conduct quarterly reconciliations no more than 30 days from the end of each quarter.

42. Edwards failed to provide the required reconciliation documentation by the deadlines set by TACP for all quarters except the first one.

- a. Trust account reconciliations and documents for the second quarter of 2021 were due to TACP by July 30, 2021, but were not provided until December 17, 2021;
- b. Trust account reconciliations and documents for the third quarter of 2021 were due to TACP by October 30, 2021, but were provided in part in November 2021 and in part on December 17, 2021;
- c. Trust account reconciliations and documents for the fourth quarter of 2021 were due to TACP by January 30, 2022, but were not provided until March 4, 2022;
- d. Trust account reconciliations and documents for the first quarter of 2022 were due to TACP by April 30, 2022, but were not provided until on or about May 4, 2022;
- e. Trust account reconciliations and documents for the second quarter of 2022 were due to TACP by July 30, 2022, but were not provided until August 29, 2022;
- f. Trust account reconciliations and documents for the third quarter of 2022 were due to TACP by October 30, 2022, but were not provided until December 29, 2022;
- g. Trust account reconciliations and documents for the fourth quarter of 2022 were due to TACP by January 30, 2023, but were not provided until February 22, 2023.

43. For six of the quarters, Edwards did not provide the required reconciliation documentation until after he was contacted by the State Bar about his failure to have provided the documentation.

44. In response to questions about why he did not timely submit the required reconciliation documentation, he stated that his accountant and he fell into the habit of waiting until the State Bar sent reminders that the materials were overdue and then did the reconciliations at that time.

45. The reconciliation reports Edwards submitted to the State Bar during his participation in the Trust Account Compliance Program were dated as if they had been timely done.

Trust account reconciliations and documents for the second quarter of 2021, due to TACP by July 30, 2021, not provided until December 17, 2021.

- a. Reconciliation report for April 2021 dated May 10, 2021 in the Report Date field at the top and at Edwards' signature.
- b. Reconciliation report for May 2021 dated June 10, 2021 in the Report Date field at the top and at Edwards' signature.
- c. Reconciliation report for June 2021 dated July 10, 2021 in the Report Date field at the top and at Edwards' signature.
- d. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on December 17, 2021.

Trust account reconciliations and documents for the third quarter of 2021, due to TACP by October 30, 2021, provided in part in November 2021 and in part on December 17, 2021.

- e. Reconciliation report for July 2021 dated August 10, 2021 in the Report Date field at the top and at Edwards' signature.
- f. Reconciliation report for August 2021 dated September 10, 2021 in the Report Date field at the top and at Edwards' signature.
- g. Reconciliation report for September 2021 dated October 10, 2021 in the Report Date field at the top and at Edwards' signature.
- h. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that the monthly report submitted in November 2021 was completed in November 2021 and that the missing reports that were provided in December 2021 were completed on or about December 9, 2021.

Trust account reconciliations and documents for the fourth quarter of 2021, due to TACP by January 30, 2022, not provided until March 4, 2022.

- i. Reconciliation report for October 2021 dated November 10, 2021 in the Report Date field at the top and at Edwards' signature.
- j. Reconciliation report for November 2021 dated December 10, 2021 in the Report Date field at the top and at Edwards' signature.
- k. Reconciliation report for December 2021 dated January 10, 2022 in the Report Date field at the top and at Edwards' signature.
- l. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on March 2, 2022.

Trust account reconciliations and documents for the first quarter of 2022, due to TACP by April 30, 2022, not provided until May 2022.

- m. Reconciliation report for January 2022 dated February 10, 2022 in the Report Date field at the top and at Edwards' signature.
- n. Reconciliation report for February 2022 dated March 10, 2022 in the Report Date field at the top and at Edwards' signature.
- o. Reconciliation report for March 2022 dated April 10, 2022 in the Report Date field at the top and at Edwards' signature.
- p. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on May 2, 2022.

Trust account reconciliations and documents for the second quarter of 2022, due to TACP by July 30, 2022, not provided until August 29, 2022.

- q. Reconciliation report for April 2022 dated May 10, 2022 in the Report Date field at the top and at Edwards' signature.
- r. Reconciliation report for May 2022 dated June 10, 2022 in the Report Date field at the top and at Edwards' signature.
- s. Reconciliation report for June 2022 dated July 10, 2022 in the Report Date field at the top and at Edwards' signature.
- t. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on August 29, 2022.

Trust account reconciliations and documents for the third quarter of 2022, due to TACP by October 30, 2022, provided on December 29, 2022.

- u. Reconciliation report for July 2022 dated August 10, 2022 in the Report Date field at the top and at Edwards' signature.
- v. Reconciliation report for August 2022 dated September 10, 2022 in the Report Date field at the top and at Edwards' signature.
- w. Reconciliation report for September 2022 dated October 10, 2022 in the Report Date field at the top and at Edwards' signature.
- x. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on December 27, 2022.

Trust account reconciliations and documents for the fourth quarter of 2022, due to TACP by January 30, 2023, not provided until February 22, 2023.

- y. Reconciliation report for October 2022 dated November 10, 2022 in the Report Date field at the top and at Edwards' signature.
- z. Reconciliation report for November 2022 dated December 10, 2022 in the Report Date field at the top and at Edwards' signature.
- aa. Reconciliation report for December 2022 dated January 15, 2023 in the Report Date field at the top and at Edwards' signature.
- bb. When later asked when these reports were prepared, Edwards stated in his April 2023 response to the State Bar that these monthly reports were all completed on February 22, 2023.

46. Edwards coordinated with his accountant's assistant regarding the dates to place on at least some of the above-referenced reports, but knew at the time he utilized the dates she recommended that such dates were not accurate. Through the false dates placed on these reports,

Edwards misrepresented to the State Bar the dates on which he had completed the respective reconciliations.

47. Edwards disbursed more funds for clients than he had in his trust account for the clients after his referral to TACP, including as follows:

- a. He paid Womack Army Medical Center twice for three clients (G. Moore, S. Moore, and W. Moore). He did not have funds in the trust account for these clients at the time of the second payments. The second payments were issued in February 2021 and cleared Edwards's trust account in April 2021.
- b. He paid fees to himself twice for a client (W. Portillo) in September and October 2022, collecting \$2,000.00 of the \$3,540.00 held in trust to bill against for fees in this client's case in September 2022, but then paying himself \$3,500.00 in October 2022. He did not have sufficient funds in the trust account for this client at the time of the \$3,500.00 disbursement.

48. As of June 30, 2023, Edwards still had not either completed disbursements for or escheated the funds associated with the three trust account checks that required action when he entered TACP referenced above, to wit: trust account checks 1127, 1174, and 1418. Moreover, during his time in TACP he failed to ensure timely disbursement of the funds associated with additional trust account checks, including the following: check 1441 (outstanding since March 2020) and checks 1533 and 1550 (outstanding since March 2021).

49. On trust account check #1739 dated June 23, 2023 to his firm for attorney's fees, Edwards failed to identify on the check the client from whose funds in the trust account the check was being issued.

Based on the foregoing Findings of Fact and upon the consent of the parties, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Antwoine L. Edwards, and the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes 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 conditionally delivering a trust account check to a client before depositing funds for the client in his trust account, Edwards failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a) and (n);

- (b) By disbursing funds for clients in excess of the funds in the trust account for the clients, Edwards failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a) and (n);
- (c) By failing to timely disburse funds held in his trust account and by failing to timely complete disbursements of funds for which trust account checks had been issued, Edwards failed to act with reasonable diligence and promptness in representing clients in violation of Rule 1.3 and failed to promptly disburse entrusted funds in violation of Rule 1.15-2(a) and (n);
- (d) By failing to timely complete the required monthly and quarterly reconciliations of his trust account, Edwards failed to conduct required reconciliations of his trust account in violation of Rule 1.15-3(d);
- (e) By failing to promptly disburse earned fees to himself from the trust account, Edwards maintained in his trust account funds belonging to him and held property other than entrusted funds in his trust account in violation of Rule 1.15-2(g);
- (f) By issuing a check from his trust account to himself for attorney's fees that did not contain any information identifying the client from whose balance in the trust account the item was drawn, Edwards improperly collected attorney's fees by an instrument that failed to contain the required client identification in violation of Rule 1.15-2(i) and failed to include required information on a trust account check in violation of Rule 1.15-3(b)(2); and
- (g) By providing the North Carolina State Bar with reconciliation reports containing dates in the Report Date field and at his signature that did not accurately reflect when the reports were completed and signed and thereby misrepresenting to the North Carolina State Bar when the reconciliation reports had been completed and signed, Edwards engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

Based on the foregoing Findings of Fact and Conclusions of Law, the stipulated facts, and upon the consent of the parties, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 49 above are reincorporated as if set forth herein.
2. In 2015, Edwards was reprimanded by the Grievance Committee of the North Carolina State Bar for submitting to Indigent Defense Services a Payment Method Verification Form that he prepared but falsified to make it appear as if it had been prepared and submitted by a

counselor for his client, and for making a false statement to the North Carolina State Bar regarding who had prepared and submitted the form.

3. A cornerstone of client trust in an attorney is that the attorney will properly protect, maintain, and disburse entrusted funds. Failure to do so erodes the confidence clients place in attorneys who handle their affairs and harms the profession.

4. The trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct are designed to assist with the proper protection, maintenance, and disbursement of entrusted funds, and to facilitate prompt detection and correction of any errors. Edwards' failure to have complied with these requirements as set out above caused potential significant harm to clients for whom he should have been maintaining funds in trust, including multiple failures to properly maintain funds in trust for clients and multiple improper disbursements from his trust account.

5. Edwards failed to timely reconcile his trust account despite the requirements being brought to his attention during the grievance investigation, despite pledging to follow a set schedule to ensure timely reconciliations, and despite receiving the free resource through the State Bar of TACP to help him achieve compliance with the reconciliation requirements of the Rules of Professional Conduct. Edwards' failure to timely reconcile his trust accounts under these circumstances caused potential significant harm to the public and the profession, in that an attorney with this level of attention and assistance from his regulatory agency still refused to bring himself into timely compliance with the Rules, showing himself to lack the trustworthiness to which the public is entitled in its attorneys.

6. Edwards' disregard for the rules also had the potential to cause significant harm to the standing of the profession in the eyes of the public because it demonstrates disregard for his duties as an attorney. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is the foundation for public trust in the entire legal system.

7. By issuing a trust account check and providing it to client G. Cacho before depositing any funds for the client into his trust account, Edwards caused significant harm to G. Cacho in that she could not negotiate the check Edwards gave her and caused potential significant harm to his other clients who had entrusted funds in this trust account, in that their funds could have been improperly disbursed to G. Cacho had the bank honored the check when she presented it.

8. Edwards' failure to identify the client from whose funds in the trust account the check for attorney's fees was being issued caused potential significant harm to clients in that it created a potential hinderance to the accurate identification and tracking of which clients' funds had been disbursed and which clients' funds should still be in the trust account.

9. The legal profession in North Carolina has the privilege of being self-regulating. In order to carry out this regulation of the profession, the North Carolina State Bar depends upon attorneys to participate in a timely and forthright manner in the disciplinary process. Edwards'

untimely submissions to TACP and his inclusion of misleading dates on the reports he submitted to TACP caused potential significant harm to the profession in that it required additional State Bar resources to be expended to obtain his compliance with TACP requirements and had the potential to impair the accurate and effective administration of the profession's self-regulation.

10. Edwards has been practicing law since 2005.

11. Edwards acknowledges that his prior practices with his trust account have not been in compliance with the Rules of Professional Conduct, is remorseful, and has made efforts to come into compliance with the Rules.

12. Edwards has been forthcoming and cooperative during the investigation of the matter.

13. The Hearing Panel finds by clear, cogent, and convincing evidence the facts contained in the conclusions set out below of the applicable factors regarding discipline from those listed in 27 N.C. Admin. Code 1B.0116(f).

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the Hearing Panel enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel carefully considered all of the different forms of discipline available to it.

2. The Hearing Panel considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f).

3. The Hearing Panel concludes that the following factor from 27 N.C. Admin. Code 1B.0116(f)(1), which are to be considered in imposing suspension or disbarment, are present in this case:

- a. Factor (B), Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- b. Factor (F), Negative impact of Defendant's actions on the administration of justice; and
- c. Factor (I), Acts of dishonesty, misrepresentation, deceit, or fabrication.

4. The Hearing Panel concludes that the following factor from 27 N.C. Admin. Code 1B.0116(f)(2), which are factors warranting consideration of disbarment, is present in this case:

- a. Factor (A), Acts of dishonesty, misrepresentation, deceit or fabrication.

5. The Hearing Panel considered disbarment based upon the above factors but determined, based upon the facts of this case, that disbarment was not the appropriate discipline to impose in this case.

6. The Hearing Panel concludes that the following factors from 27 N.C. Admin. Code 1B.0116(f)(3), which are to be considered in all cases, are present in this case:

- a. Factor (A), Prior disciplinary offenses;
- b. Factor (B), Remoteness of prior offenses;
- c. Factor (C), Dishonest or selfish motive;
- d. Factor (D), Timely good faith efforts to make restitution and to rectify consequences of misconduct;
- e. Factor (F), A pattern of misconduct;
- f. Factor (G), Multiple offenses;
- g. Factor (K), Full and free disclosure to the Hearing Panel and a cooperative attitude toward the proceedings;
- h. Factor (P), Remorse; and
- i. Factor (S), Degree of experience in the practice of law.

7. The Hearing Panel considered all of the disciplinary options available to it and determined that a suspension is appropriate in this case, in light of the significant harm and potential significant harm caused by Defendant's conduct to his clients and the profession. A suspension with conditions for a stay of the suspension and/or for reinstatement designed to achieve and maintain full compliance with the trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct is necessary to protect clients and the public.

8. The Hearing Panel has considered all lesser sanctions and finds that discipline short of a suspension would not adequately protect the public for the following reasons:

- a. A suspension with conditions designed to ensure measures are in place to achieve and maintain full compliance with the trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct prior to Edwards continuing to practice law is necessary to protect clients and the public;
- b. Supervision under a stayed suspension is necessary to ensure all required corrections are made and sustained; and

- c. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Edwards committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State.

Based on the foregoing Findings of Fact, Conclusions of Law, additional Findings of Fact and Conclusions of Law Regarding Discipline, and with the consent of the parties, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Antwoine L. Edwards, is hereby suspended from the practice of law for four years. The effective date of this Order is 30 days from service of this Order upon Edwards pursuant to 27 N.C. Admin. Code 1B.0128(c) but Edwards shall have 45 days from service of this Order to complete the winding down of his practice and to comply with the provisions of 27 N.C. Admin. Code 1B.0128.

2. Edwards is taxed with the administrative fees and costs of this proceeding. Edwards shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Edwards must pay the costs within 30 days of service upon him of the statement of costs by the Secretary.

3. Within 15 days of the effective date of this Order, Edwards shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Edwards and obtain such files. Edwards must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.

4. Edwards shall promptly return client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Edwards will be deemed to have received any such request 3 days after the date such request is sent to Edwards if the request is sent to the address Edwards provided the State Bar pursuant to the preceding paragraph.

5. Edwards shall comply with all provisions of 27 N.C. Admin. Code 1B.0128 as set out therein within 45 days of service of this Order upon him.

6. After no less than six months following the effective date of this order, Edwards may file a motion with the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B.0118(c) to have the remaining period of suspension imposed by this Order stayed. To be eligible to have the remaining period of suspension stayed after completing six months of the suspension, Edwards must comply with the requirements of 27 N.C. Admin. Code 1B.0118 and 27 N.C. Admin. Code 1B.0129, and must also show by clear, cogent, and convincing evidence the following:

- a. That he timely complied with paragraphs 2-5 of this section of the Order of Discipline, including having properly wound down his law practice and timely complied with all provisions of 27 N.C. Admin. Code 1B.0128;

- b. That he established written trust account procedures, to be provided with any motion for stay or petition for reinstatement, setting forth the personnel to be involved, the documents to be utilized, and the process to be implemented, to accomplish the following:
- (1) Ensuring a client identifier is used, and only one consistent client identifier is used per client, on all pertinent trust account records, including on the client subsidiary trust account ledger, the general ledger, deposit slips, trust account checks, wire documentation, counter debits or credits, and any other instrument by which funds are deposited into or disbursed from a trust account for the client;
 - (2) Ensuring a client subsidiary trust account ledger is created for the client at the time of any deposit of entrusted funds into a trust account for the client;
 - (3) Ensuring an accurate and appropriate entry is made on the client subsidiary trust account ledger for the client at the time of any deposit or disbursement of funds for the client in the trust account;
 - (4) Ensuring no entry is made on a client subsidiary trust account ledger other than entries for actual deposits into or disbursements from the trust account (e.g. billing/invoicing record-keeping must be done separately);
 - (5) Ensuring a folder (paper or electronic) is created and maintained per client containing the most current client subsidiary trust account ledger and a copy of each deposit slip and deposited item for any deposits made for the client into a trust account and a copy of every trust account check, wire confirmation, or other instrument by which funds were disbursed from the trust account for the client. If Edwards utilizes a computer software program for trust account record-keeping and for the reports utilized in the three-way reconciliation, then the client subsidiary trust account ledger shall be printed from that program and maintained in the folder. If Edwards utilizes both handwritten ledgers and computer software program ledgers, then a copy of both shall be maintained in the client's file. For handwritten ledgers, the procedures must include ensuring that the copy of the handwritten ledger is clear and legible;
 - (6) Ensuring the client subsidiary trust account ledger is checked and the balance of funds in the trust account for the client is verified prior to any disbursement of funds being made from the trust account for the client. For handwritten ledgers, the procedures must include Edwards verifying that each balance in the running balance column was calculated accurately and is correct and notating this verification in some manner on the ledger;

- (7) Ensuring that trust account checks are not issued before (1) funds for the associated client have been deposited into the trust account and (2) any applicable waiting period per bank policy has passed and sufficient funds to support the check(s) for the client have been irrevocably credited to the trust account and made available for disbursement for that client;
 - (8) Ensuring clients are notified in writing upon each and every receipt of entrusted funds for the client;
 - (9) Ensuring accountings are sent annually to clients for whom funds are held in trust for more than one year;
 - (10) Timely completion of disbursements, including procedures for monitoring client balances and promptly disbursing all funds in trust for the client, and for monitoring outstanding checks and for taking action to complete disbursements for checks that have not been negotiated and cleared the trust account within six months of issuance;
 - (11) Timely monthly reconciliations of every trust account maintained by Edwards compliant with Rule 1.15-3(d)(1) and preparation and maintenance of the records required by Rule 1.15-3(d)(1) and (3);
 - (12) Timely quarterly reconciliations of every trust account maintained by Edwards compliant with Rule 1.15-3(d)(2) and preparation and maintenance of the records required by Rule 1.15-3(d)(2) and (3);
 - (13) Timely monthly reviews of every trust account maintained by Edwards compliant with Rule 1.15-3(e)(1) and preparation and maintenance of the records required by Rule 1.15-3(e)(1) and (5); and
 - (14) Timely quarterly reviews of every trust account maintained by Edwards compliant with Rule 1.15-3(e)(2) and (3) as applicable, and maintenance of the records required by Rule 1.15-3(e)(2), (3), and (5).
- c. That he provided to the Office of Counsel a written report of the three-way reconciliation of all attorney trust accounts to which he has access at the time of entry of this Order and for any trust account he intends to use in his practice of law, reconciling the accounts as of the end of the month immediately preceding the filing of his motion for stay, using the State Bar's Reconciliation Report form from the State Bar's website and the reconciliation methods described in the State Bar Lawyer's Trust Account Handbook on the State Bar's website for the three-way reconciliation normally required quarterly under Rule 1.15-3(d)(2). Edwards shall complete the entire form for each trust account and include with each such report all documents identified on the form for when the entire form is completed, along with the subsidiary trust account ledger for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month and any

administrative ledger for Edwards's funds in the trust account to maintain the account. The copies of the subsidiary ledgers produced to and received by the State Bar must be clear and legible. The client subsidiary trust account ledgers shall contain an accurate and appropriate entry for each deposit and disbursement of funds for the client in the trust account with an accurate running balance and shall not contain any other entries (e.g. billing/invoicing record-keeping must be done separately).

- d. That he made arrangements in writing for a Trust Account Monitor approved by the Office of Counsel of the North Carolina State Bar. Edwards will be responsible for any associated costs. The Trust Account Monitor shall agree in writing – such documentation to be included with any motion for stay – to do the following:
 - (1) Review all transactions in any and all trust accounts utilized by Edwards that month, completed no later than the 15th day of the next subsequent month (e.g. review the transactions for January no later than February 15), with such review to include, for each trust account, review of the bank statements, canceled checks, deposit slips, deposited items, any bank instrument by which funds were deposited into or disbursed from the trust account, the general ledger for the trust account, and the subsidiary trust account ledgers including those required by Rule 1.15-3(b)(5) for all clients for whom funds were received, disbursed, or maintained in the trust account in that month;
 - (2) Verify and certify for the month that all bank transactions (including all deposits, disbursements, bank charges, etc.) are recorded on the general ledger for the pertinent trust account and on an appropriate subsidiary trust account ledger and all entries on all general ledgers and subsidiary trust account ledgers accurately reflect the corresponding bank transaction;
 - (3) Verify and certify that a client identifier was used, and the same client identifier was consistently used per client, that month across all applicable records, including on the client's subsidiary trust account ledger, on the general ledger, on any trust account check or other instrument disbursing funds from the trust account, and on any deposit slip depositing funds for the client into the trust account;
 - (4) Verify and certify that no trust account checks were given to any recipient and/or disbursements otherwise made for any client from the trust account prior to sufficient funds for that client having been deposited into the trust account and irrevocably credited to the trust account and made available for disbursement for that client;
 - (5) Verify and certify that the client from whose funds in the trust account a disbursement was made is identified for all disbursements from the trust

account, and that no disbursements were made from the trust account in excess of the funds in the trust account for that client;

- (6) Verify and certify that Edwards and his staff followed the written procedures referenced in paragraph 6.b. and 7.a. of this section; and
- (7) If the Trust Account Monitor finds any inaccuracies or deficiencies in conducting the above-described reviews, such that he or she cannot make any of the above certifications, then the Trust Account Monitor shall make the certifications that are accurate, identify which certifications he or she cannot make, and identify the inaccuracies, deficiencies, or other reasons resulting in his or her inability to make the identified certification.

- e. That he made arrangements in writing, for either his Trust Account Monitor or an accountant to audit all trust accounts maintained by Edwards each quarter, completed no later than 30 days after the end of the quarter, in the manner and with the assessments described in this paragraph. The written agreement from either the Trust Account Monitor or the accountant who will perform these audits must be included with any motion for stay. Edwards will be responsible for any associated costs. This audit shall assess whether Edwards has in the trust account(s) the client funds he is required to maintain for clients at that time, as well as Edwards' compliance with Rule 1.15-2 and Rule 1.15-3. The audit shall address the items on the Report Template form which will be provided by the State Bar to Edwards. The quarterly audit reports are due no later than 30 days after the end of the quarter – for example, the audit for the first quarter of the calendar year (January, February, and March) is due on April 30.

7. If, at the time Edwards applies for a stay of his suspension, Edwards no longer has an open attorney trust account and does not intend to utilize an attorney trust account or handle trust or fiduciary funds in the course of his practice of law, then, in lieu of showing compliance with paragraphs 6.d. and 6.e. above, Edwards may submit an affidavit stating that he no longer has an open attorney trust account and does not intend to utilize an attorney trust account or handle trust or fiduciary funds.

8. If the DHC stays Edwards' suspension, the remaining period of Edwards' suspension shall be stayed for four years. The stay of Edwards's suspension of his law license will continue in effect only as long as Edwards complies with the following conditions:

- a. Edwards shall make any adjustments to his written procedures required by the Office of Counsel at any time during the stayed suspension to ensure compliance with the Rules of Professional Conduct, and shall provide revised written procedures within ten days of notice from the Office of Counsel;
- b. Edwards and all attorneys and staff in his office will follow the written trust account procedures established pursuant to this Order. Edwards shall provide each month, no later than the 15th day of the next subsequent month (e.g. certification for January

due no later than February 15), a certification by him that all written procedures were followed by him, by any other attorneys in his firm, and by all staff in his firm, with respect to all trust accounts and all trust account transactions that month. If there was any failure to follow a written procedure, any and all such deficiencies shall be identified, explained, and corrective action implemented to ensure the procedure at issue is followed in the future. If Edwards identifies a need to change any procedure, Edwards must submit to the Office of Counsel the proposed change with explanation for approval, and must receive approval prior to implementing the change;

- c. Edwards shall provide monthly to the State Bar's Office of Counsel a written report of the three-way reconciliation of all attorney trust accounts to which he has access, using the State Bar's Reconciliation Report form from the State Bar's website and the reconciliation methods described in the State Bar Lawyer's Trust Account Handbook on the State Bar's website for the three-way reconciliation normally required quarterly under Rule 1.15-3(d)(1). Edwards shall complete the entire form for each trust account and include with each such report all documents identified on the form for when the entire form is completed, along with the subsidiary trust account ledger for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month and any administrative ledger for Edwards's funds in the trust account to maintain the account. The copies of the subsidiary ledgers produced to and received by the State Bar must be clear and legible. The client subsidiary trust account ledgers shall contain an accurate and appropriate entry for each deposit and disbursement of funds for the client in the trust account with an accurate running balance, and shall not contain any other entries (e.g. billing/invoicing record-keeping must be done separately). This documentation is due 15 days after the end of each month (e.g. documentation for January due February 15th, etc.);
- d. For the first six months of any stay of Edwards's suspension, Edwards shall personally complete the Reconciliation Report form required by the preceding paragraph each month. After the first six months, Edwards may utilize an assistant to complete sections 1 – 7 of the Reconciliation Report form required by the preceding paragraph each month, but must still personally review the underlying reconciliation documentation, the bank statement, and the cancelled checks, and sign and date at the bottom of the form.
- e. Edwards shall provide each month, no later than the 15th day of the next subsequent month (e.g. certification for January due no later than February 15), a certification from the Trust Account Monitor verifying and certifying the following:
 - (1) That the Trust Account Monitor reviewed all transactions in any and all trust accounts utilized by Edwards that month, with such review to include, for each trust account, review of the bank statements, canceled checks, deposit slips, deposited items, any bank instrument by which funds were deposited

into or disbursed from the trust account, the general ledger for the trust account, and the subsidiary trust account ledgers including those required by Rule 1.15-3(b)(5) for all clients for whom funds were received, disbursed, or maintained in the trust account in that month;

- (2) That all bank transactions (including all deposits, disbursements, bank charges, etc.) are recorded on the general ledger for the pertinent trust account and on an appropriate subsidiary trust account ledger and all entries on all general ledgers and subsidiary trust account ledgers accurately reflect the corresponding bank transaction;
 - (3) That a client identifier was used, and the same client identifier was consistently used per client, that month across all applicable records, including on the client's subsidiary trust account ledger, on the general ledger, on any trust account check or other instrument disbursing funds from the trust account, and on any deposit slip depositing funds for the client into the trust account;
 - (4) That no trust account checks were given to any recipient and/or disbursements otherwise made for any client from the trust account prior to sufficient funds for that client having been deposited into the trust account and irrevocably credited to the trust account and made available for disbursement for that client;
 - (5) That the client from whose funds in the trust account a disbursement was made is identified for all disbursements from the trust account, and that no disbursements were made from the trust account in excess of the funds in the trust account for that client; and
 - (6) That Edwards and his staff followed the written procedures referenced in paragraph 6.b. and 7.a. of this section;
- f. If the Trust Account Monitor finds any inaccuracies or deficiencies in conducting the above-described reviews, such that he or she cannot make any of the above certifications, then the Trust Account Monitor shall make the certifications that are accurate, identify which certifications he or she cannot make, and identify the inaccuracies, deficiencies, or other reasons resulting in his or her inability to make the identified certification;
- g. Within ten days of any report by the Trust Account Monitor that he or she cannot make any of the above-required certifications due to inaccuracies, deficiencies, or other reasons, Edwards shall correct any inaccuracies, deficiencies, or other issues identified by the Trust Account Monitor resulting in the Trust Account Monitor's inability to make a required certification and shall provide documentation to the North Carolina State Bar Office of Counsel of the correction(s) and a certification

from the Trust Account Monitor verifying that all necessary corrections have been made and making the certification he or she was previously unable to make;

- h. Edwards shall provide any trust account related documentation or records requested by the Office of Counsel within ten days of the request;
- i. Each quarter, Edwards shall have either his Trust Account Monitor or an accountant audit all trust accounts. Edwards will be responsible for any associated costs. This audit shall assess whether Edwards has in the trust account(s) the client funds he is required to maintain for clients at that time, as well as Edwards's compliance with Rule 1.15-2 and Rule 1.15-3. The audit shall address the items on the Report Template form which will be provided by the State Bar to Edwards. The quarterly audit reports are due no later than 30 days after the end of the quarter – for example, the audit for the first quarter of the calendar year (January, February, and March) is due on April 30;
- j. If a monthly three-way reconciliation report, a Trust Account Monitor review, a quarterly audit, or any other review reveals any deviation from Edwards's obligations under Rule 1.15-2 or Rule 1.15-3, Edwards shall take remedial action and shall, within ten days of the date of such report, review, or audit, provide documentation to the Office of Counsel showing the remedial action. If State Bar review revealed the deviation, Edwards shall take remedial action within ten days of the date of the correspondence notifying him of the issue;
- k. For each calendar year of the stayed suspension, Edwards completes one additional hour of CLE on the topic of trust account management and/or reconciliations. This CLE requirement is in addition to Edwards's other CLE requirements;
- l. Edwards keeps the State Bar's Membership Department advised of his current business address, which address must be a street address, not a post office box or drawer;
- m. Edwards notifies the State Bar of any change of address within 10 days of such change;
- n. Edwards responds to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within 30 days of receipt of such communication or by the deadline stated in the communication, whichever is sooner;
- o. Edwards participates in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order; and

- p. Edwards does not violate the Rules of Professional Conduct or the laws of the United States or any state or local government.

9. If, during any stay of the suspension, Edwards does not have an open attorney trust account and is not utilizing an attorney trust account or handling trust or fiduciary funds, then, in lieu of the requirements set out in paragraphs 8.b. through 8.j. above, Edwards shall submit an affidavit stating that he does not have an open attorney trust account and did not handle trust or fiduciary funds that month. Such affidavit shall be submitted on a monthly basis for the immediately preceding month, and shall be executed and provided to the Office of Counsel by the 5th day of the month (e.g. the affidavit for January would be due to the Office of Counsel by February 5th).

10. If, during any stay of the suspension, Edwards fails to comply with any one or more of the conditions stated above, then the stay of the suspension of Edwards's law license may be lifted as provided in 27 N.C. Admin. Code 1B.0118.

11. To be eligible for any stay of his suspension, Edwards must comply with all requirements of paragraph 6 of this section of the Order, directly and/or as set forth in paragraph 7.

12. If no stay of the suspension is granted or a stay is granted but subsequently lifted, and the four-year suspension has been served, to be eligible for reinstatement to active status Edwards must demonstrate by clear, cogent, and convincing evidence compliance with the requirements of the applicable rule as well as with the following requirements:

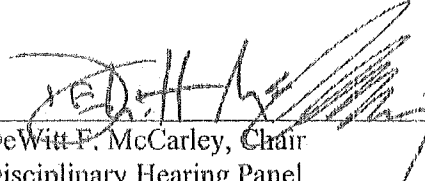
- a. Edwards properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code 1B.0128;
- b. Edwards submitted his law license and membership card to the Secretary of the State Bar no later than 30 days following the effective date of the order lifting the stay;
- c. Within 15 days of the effective date of this Order, Edwards shall have provided the Office of Counsel and the Membership Department of the State Bar with an address and telephone number at which clients seeking return of files can communicate with Edwards and obtain such files. Edwards must have kept this information current with the Membership Department of the State Bar, providing updated information to the State Bar within 15 days of any change;
- d. Edwards shall have promptly returned client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Edwards will be deemed to have received any such request 3 days after the date such request is sent to Edwards if the request is sent to the address Edwards provided the Membership Department of the State Bar pursuant to the preceding paragraph;
- e. Edwards disbursed to the proper recipients all identified client funds in any trust account he maintained at the time of his suspension;

- f. Edwards complied with Rule 1.15-2(r) and Chapter 116B of the General Statutes regarding any and all abandoned or unidentified funds in any trust account of Edwards's within 30 days of being statutorily permitted to escheat funds to the State;
- g. Edwards completed four hours of continuing legal education in the area of trust account management approved by the Office of Counsel of the State Bar, including at least one CLE by the Trust Account Compliance Counsel for the North Carolina State Bar, in the year immediately preceding his application for reinstatement under this paragraph;
- h. Edwards provided the written procedures described in paragraph 6.a. of this section to the Office of Counsel of the State Bar with his petition for reinstatement;
- i. Edwards kept the Membership Department of the State Bar informed of his current information for his physical address (not a Post Office box), telephone number, and e-mail address throughout the period of his suspension;
- j. Edwards accepted all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar throughout the period of the suspension;
- k. Edwards responded to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated therein with full and complete responses and all requested documentation throughout the period of his suspension;
- l. Edwards came into compliance with any outstanding continuing education or membership obligations at the time of the filing of his petition for reinstatement;
- m. Edwards did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- n. Edwards did not violate any laws of the State of North Carolina or of the United States during the period of the suspension;
- o. Edwards paid all costs and fees of this proceeding as assessed by the Secretary by the date of the filing of his petition for reinstatement; and
- p. If Edwards failed to fully comply with 27 N.C. Admin. Code 1B.0128, Edwards shall reimburse the State Bar for any and all expenses incurred by the State Bar in winding down Edwards's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses and compensation paid to any appointed trustee and/or the trustee's assistant for time and travel associated with the trusteeship. The State Bar shall send an invoice of wind-down expenses


to Edwards at Edwards's last known address of record with the State Bar. Edwards shall not be eligible for any stay of suspension or reinstatement from suspension until he has reimbursed the State Bar for any wind-down expenses incurred.

13. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B.0118 until all conditions of the stay of the suspension are satisfied.

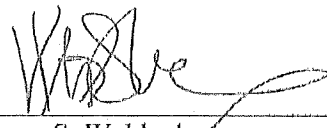
Signed by the Chair with the consent of the other Hearing Panel members, this the 24th day of June, 2024.


DeWitt P. McCarley, Chair
Disciplinary Hearing Panel

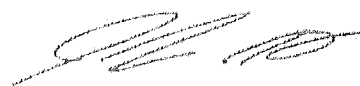
WE CONSENT:


Antwoine L. Edwards
Defendant

6/12/24
Date


Whitney S. Waldenberg
Attorney for Defendant

June 13, 2024
Date


Jennifer A. Porter, Deputy Counsel
Attorney for Plaintiff

June 11, 2024
Date