

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
20 DHC 5

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

WILLIAM H. MORGAN, JR, Attorney,

Defendant

CONSENT
ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Richard V. Bennett, Chair, and members Margit Monaco Hicks and Tyler B. Morris. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant, William H. Morgan, Jr., was represented by Alan M. Schneider.

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, William H. Morgan, Jr. ("Morgan"), was admitted to the North Carolina State Bar in 1986, 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, Morgan was engaged in the practice of law in the State of North Carolina and maintained a law office in Elizabeth City, Pasquotank County, North Carolina.

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

5. Morgan maintained an attorney trust account at Branch Banking & Trust Company (BB&T) (now Truist Bank), account number ending in the digits 3519 (hereinafter "TA 3519" or "trust account").

6. From late 2006 to March 2015, Morgan delegated trust accounting tasks, including reconciliations of his trust account and the issuance of checks from his trust account, to a nonlawyer assistant, CC.

7. Morgan did not substantively supervise CC's trust account activities, and did not independently review trust account reconciliations, bank statements, trust account checks, or trust account records.

8. As of December 2014, Morgan had disbursed more funds for clients from his trust account than he had in the trust account for the clients, including the following amounts in the following client matters:

	<u>CLIENT</u>	<u>AMOUNT</u>
a.	GG (ID#: 12072)	\$1,000.00
b.	WT and RT (ID#: 11789)	\$853.77
c.	SH and PH (ID#: 11714)	\$311.65
d.	JC (ID#:11704)	\$20.00
e.	MG (ID#: 11624)	\$57.88
f.	AW and JW (ID#: 11667)	\$53.34
g.	OC (ID#: 12147)	\$.01
h.	WS and AS (ID#:11925)	\$.01
i.	KB (ID#: 11857)	\$.20
j.	JW and KW (ID#: 12430)	\$110.86
k.	SP and LP (ID#: 12286)	\$.01
l.	FD and BD (ID#: 12418)	\$38.20
m.	AM and BM (ID#: 12649)	\$49.00
n.	GG and CG (ID#: 12563)	\$895.00
o.	JM and TM (ID#: 12605)	\$20.00
p.	DA and JA (ID#:13048)	\$30.00
q.	MS (ID#: 12538)	\$4,000.00
	<u>TOTAL:</u>	<u>\$7,439.93</u>

9. Morgan did not deposit funds to cure these deficits until March 12, 2019.

10. As of December 31, 2014, Morgan had failed to maintain a list of client balances and did not know to which clients and in what amounts the \$215,211.53 balance of funds in his trust account belonged.

11. Morgan created a "Service Account" subsidiary ledger for his trust account for the \$215,211.53 balance.

12. Morgan recorded any trust account check issued prior to December 31, 2014 that cleared his trust account after December 31, 2014 on the Service Account ledger.

13. As of September 2019, Morgan still had funds in his trust account for which he could not identify the client(s) to whom such funds belonged.

14. With respect to trust account checks issued on or after January 1, 2015, Morgan failed to promptly complete disbursements of entrusted funds, with certain trust account checks issued in 2015, 2016, 2017 and 2018 still pending as of June 2019.

15. Until at least March 2019, Morgan failed to conduct reconciliations of his trust account comparing the total of all subsidiary trust account ledgers with a positive balance with his general ledger balance and his adjusted bank statement balance quarterly (hereinafter "quarterly reconciliation").

16. On March 21, 2019, Morgan's trust account was the subject of a random audit by the North Carolina State Bar. In addition to finding Morgan had failed to conduct quarterly reconciliations, the audit showed as follows:

- a. Morgan failed to identify the client whose funds in the trust account were being disbursed by certain wire/electronic/online transfers of funds;
- b. Morgan failed to identify the source of funds on deposit slips, if different than the client;
- c. Morgan's employee, JG, who was responsible for performing monthly reconciliations of his trust account, signed trust account checks;
- d. Morgan's employee, JG, did not take the required one-hour trust account management continuing legal education (CLE) course prior to exercising signature authority for the trust account by signing trust account checks; and
- e. Morgan did not review the statement of costs and receipts, client ledger, and cancelled checks of a random sample of representative transactions completed during the quarter on a quarterly basis.

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, William H. Morgan, Jr., 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 failing to compare the total of subsidiary trust account ledgers with a positive balance with his general ledger balance and his adjusted bank statement balance each quarter, Morgan failed to conduct quarterly reconciliations of his trust account in violation of Rule 1.15-3(d)(1);
- (b) By failing to review the statement of costs and receipts, client ledger, and cancelled checks of a random sample of representative transactions completed in his trust account during the quarter on a quarterly basis, Morgan failed to conduct quarterly reviews of his trust account in violation of Rule 1.15-3(i)(2);
- (c) By disbursing more funds for clients than he maintained in the trust account for such clients at that time, Morgan failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a), (k), and (n);
- (d) By delegating trust accounting tasks, including reconciliations and the issuance of checks from his trust account, to a nonlawyer assistant, CC, and failing to substantively supervise her trust account activities, and failing to independently review trust account reconciliations, bank statements, trust account checks, or trust account records, Morgan failed to make reasonable efforts to ensure that the nonlawyer's conduct was compatible with his professional obligations in violation of Rule 5.3(b);
- (e) By failing to identify the source of funds deposited into the trust account on the record of deposit (deposit slips), Morgan failed to maintain minimum records in violation of Rule 1.15-3(b)(1);
- (f) By failing to identify the client whose funds in the trust account were being disbursed by certain wire/electronic/online transfers of funds on the record of the transaction, Morgan failed to maintain minimum required records in violation of Rule 1.15-3(b)(3);
- (g) By having an employee who was responsible for performing monthly reconciliations of his trust account sign trust account checks, Morgan failed to

ensure that trust account checks were not signed by an employee responsible for reconciling his trust account in violation of Rule 1.15-2(s)(1);

- (h) By having an employee who had not taken the required CLE course sign trust account checks, Morgan failed to ensure his employee had taken the required CLE course prior to exercising signature authority for his trust account in violation of Rule 1.15-2(s)(3);
- (i) By maintaining and disbursing funds from his trust account in a manner resulting in Morgan not being able to identify the client(s) to whom all funds in his trust account belonged, Morgan failed to properly maintain and identify entrusted funds in violation of Rule 1.15-2(a); and
- (j) By failing to promptly complete disbursements of entrusted funds, with trust account checks issued in 2015, 2016, 2017 and 2018 still pending as of June 2019, Morgan failed to promptly disburse entrusted funds in violation of Rule 1.15-2(n) and failed to diligently complete disbursements for client matters in violation of Rule 1.3.

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 – 16 above are reincorporated as if set forth herein.
2. 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.
3. 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. Defendant's failure to have complied with these requirements as set out above caused significant harm to clients for whom he should have been maintaining funds in trust, including improper disbursements from his trust accounts, failure to timely complete disbursements from his trust account, and failure to preserve the identification of the client owners of all funds in his trust account.
4. To the extent an attorney utilizes non-attorney assistants and/or software programs to carry out tasks for the trust account, the attorney remains responsible for supervising the assistants and/or reviewing the reports of the software program to ensure the trust account records, reviews, and reconciliations are in compliance with the Rules of Professional Conduct. By failing to sufficiently supervise his assistant and by failing to review trust account reconciliations, bank

statements, trust account checks, or trust account records, Defendant caused significant harm and potential harm to clients with funds in his trust accounts by creating circumstances under which funds could be, and were, improperly disbursed from his trust accounts, and circumstances under which such improper disbursements would not be found and corrected in a timely manner.

5. The same checks issued from April 2015 – August 2018 that were outstanding as of June 2019 were still outstanding as of February 28, 2020.

6. The same amount of funds for which Defendant could not identify the clients for whom the funds were in trust as of September 2019, in the amount of \$13,224.53, remains without client identification as of February 28, 2020. Additionally, Defendant made a deposit to his trust account on December 31, 2019 in the amount of \$11,643.26 for which he did not identify the client or clients to whom such funds were being deposited, and those funds remained without identification of the client(s) to whom the funds are being held in trust as of February 28, 2020.

7. For the time period of October 1, 2019 to February 29, 2020, Defendant did not timely complete required trust account reconciliations and monthly reviews of his trust account for October and November 2019. Defendant did not conduct any quarterly reviews required by Rule 1.15-3(i)(2) between October 1, 2019 and February 29, 2020. Defendant did not adequately supervise his staff to ensure timely completion of delegated duties in support of his trust account reconciliations and reviews.

8. Defendant has no prior discipline.

9. Defendant 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.

10. Defendant now independently reviews his cancelled trust account checks and compares the checks with the software reports prepared by his assistant to ensure his records are accurate.

11. Defendant has undertaken procedures designed to ensure each client's balance in the trust account is accurate and that planned disbursements for a real estate closing match the funds in the trust account for the real estate closing prior to disbursement.

12. 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.

4. The Hearing Panel considered the factors listed in 27 N.C. Admin. Code 1B.0116(f)(2), which are factors warranting consideration of disbarment, and concluded no factors in this section of the rule are present in this case.

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

6. The Hearing Panel considered all of the disciplinary options available to it and determined that a stayed suspension is appropriate in this case, in light of the significant harm and potential harm caused by Defendant's conduct to his clients and the profession. A stayed suspension with conditions designed to 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.

7. 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 stayed suspension with conditions designed to ensure measures are in place and are sustained to 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; and
- b. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant 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, William H. Morgan, Jr., 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 Defendant pursuant to 27 N.C. Admin. Code 1B.0128(c). The suspension is stayed from its inception pursuant to the terms set out below.

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

3. Defendant's four-year suspension is stayed for four years. The stay of Defendant's suspension of his law license will continue in effect only as long as Defendant complies with the following conditions:

- a. Defendant timely paid the administrative fees and costs as set out in paragraph 2;
- b. Defendant has made arrangements in writing for a Trust Account Monitor approved by the Office of Counsel of the North Carolina State Bar. Defendant will be responsible for any associated costs. The Trust Account Monitor shall agree in writing -- such documentation to be provided to the Office of Counsel within 30 days of entry of this Order -- to do the following:
 - (1) Review all transactions in any and all trust accounts utilized by Defendant each month, 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 per 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 any and all subsidiary trust account ledgers

(handwritten and from any software program utilized by Defendant) 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; and

- (2) Verify and certify for the month that all bank transactions (including all deposits, disbursements, bank charges, etc.) are recorded on a general ledger for the trust account and on an appropriate subsidiary trust account ledger and all entries on all general ledgers and all subsidiary trust account ledgers (handwritten and from any software program utilized by Defendant) accurately reflect the corresponding bank transaction.
- c. Defendant 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 Defendant 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; and
 - (3) 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;
- d. 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, Defendant 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;

- e. Defendant shall have established and shall follow written procedures – the current version of such documentation to be provided to the Office of Counsel within 30 days of entry of this Order – 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 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;
 - (2) 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;
 - (3) 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 Defendant 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 ledgers shall be printed from that program and maintained in the folder. If Defendant utilizes both handwritten ledgers and computer software program ledgers, then a copy of both shall be maintained in the client's file;
 - (4) 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;
 - (5) Ensuring the trust account checks, deposit slips, ledgers, and other documents for each and every trust account maintained by Defendant are kept separate and distinguishable from such documentation for any other trust account maintained by Defendant at any time, sufficient to ensure that deposit slips, checks, or other documentation for one trust account would not mistakenly be utilized when the deposit or disbursement should be in a different trust account;
 - (6) Timely monthly reconciliations of every trust account 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);

- (7) Timely quarterly reconciliations of every trust account 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);
 - (8) Timely monthly reviews of every trust account compliant with Rule 1.15-3(i)(1) and preparation and maintenance of the records required by Rule 1.15-3(i)(1) and (5);
 - (9) Timely quarterly reviews of every trust account compliant with Rule 1.15-3(i)(2) and (3) as applicable, and maintenance of the records required by Rule 1.15-3(i)(2), (3), and (5); and
 - (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.
- f. Defendant shall make any adjustments to his written procedures required by the Office of Counsel 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;
- g. Defendant 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 that all written procedures were followed 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 Defendant identifies a need to change any procedure, Defendant must submit to the Office of Counsel the proposed change with explanation for approval, and must receive approval prior to implementing the change;
- h. Defendant shall use only the new trust account opened at BB&T (Truist) with account number ending in digits 5402 ("TA 5402") for new transactions beginning no later than from the date of entry of this order;
- i. Defendant shall limit the activity in his pre-existing trust account TA 3519 to completing all disbursement of funds from that account and to closing it. All funds in TA 3519 from deposits occurring 180 days or more prior to the date of the entry of this order must be disbursed no later than thirty days from the entry of this order. All funds in TA 3519 from deposits occurring within 179 days of the date of the entry of this order must be disbursed no later than 180 days after the date of the deposit or thirty days from the entry of this order, whichever is later. The funds

that must be disbursed include those denominated as outstanding checks, balances shown on client subsidiary trust account ledgers, and any other funds in TA 3519;

- j. If funds in TA 3519 must be escheated and the steps for escheatment required by statute cannot be completed within these deadlines, Defendant must provide to the Office of Counsel documentation by the applicable deadline of the initiation of the escheatment process and a detailed escheatment plan for each amount being escheated, including each statutorily required step and the date on which it will occur which shall be the first day permitted by statute for that action. Defendant thereafter shall provide monthly updates on the progress of each escheatment with the monthly trust account three-way reconciliations required herein as set out below. Each step in the escheatment process shall be taken by Defendant as soon as permitted by statute;
- k. TA 3519 shall be closed upon disbursement of all funds from the account;
- l. No transfer of funds from TA 3519 to TA 5402 shall occur other than with express approval of the specific transfer from the Office of Counsel prior to the transfer. Defendant shall provide any and all documentation requested by the Office of Counsel in support of any request to transfer funds from TA 3519 to TA 5402;
- m. Defendant 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). Defendant 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 client subsidiary trust account ledger for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month. If Defendant utilizes a computer software program for trust account record-keeping and for the reports utilized in his trust account reconciliations, then the client subsidiary trust account ledgers shall be printed from that program and provided to the State Bar for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month. Client subsidiary trust account ledgers shall only be provided for clients for whom funds were deposited, maintained, or disbursed during the pertinent month. Client subsidiary trust account ledgers shall show each and every deposit into and disbursement from the trust account for the client with an accurate running balance. This documentation is due 15 days after the end of each month (e.g. documentation for January due February 15th, etc.);
- n. For the first six months of any stay of Defendant's suspension, Defendant shall personally complete the Reconciliation Report form required by the preceding paragraph each month. After the first six months, Defendant 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.

- o. Defendant shall provide any trust account related documentation or records requested by the Office of Counsel within ten days of the request;
- p. Defendant shall take full and responsive corrective action to cure any deficiency or issue brought to his attention by the Office of Counsel within ten days of the communication from the Office of Counsel notifying him of the deficiency or issue and shall provide documentation of the corrective action to the Office of Counsel within ten days of the communication from the Office of Counsel notifying him of the deficiency or issue;
- q. Each quarter, Defendant shall have either his Trust Account Monitor or an accountant audit all trust accounts. Defendant will be responsible for any associated costs. This audit shall assess whether Defendant has in the trust account(s) the client funds he is required to maintain for clients at that time and Defendant's compliance with Rule 1.15-2 and Rule 1.15-3. Defendant's compliance with Rule 1.15-2 and Rule 1.15-3 shall be addressed on the Report Template form which will be provided by the Office of Counsel to Defendant. 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;
- r. If a monthly three-way trust account reconciliation report, a Trust Account Monitor review, or a quarterly audit required under this Order reveals any deviation from Defendant's obligations under Rule 1.15-2 or Rule 1.15-3, Defendant 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;
- s. For each calendar year of the stayed suspension, Defendant shall complete one additional hour of CLE on the topic of trust account management and/or reconciliations. This CLE requirement is in addition to Defendant's other CLE requirements;
- t. Defendant shall keep 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;
- u. Defendant will notify the State Bar of any change of address within 10 days of such change;

- v. Defendant must respond 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;
- w. Defendant must participate 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
- x. Defendant must not violate the Rules of Professional Conduct or any laws of the State of North Carolina or of the United States.

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

5. If the stay of the suspension is lifted and the suspension is activated, upon any application or petition for stay or reinstatement Defendant must demonstrate compliance by clear, cogent, and convincing evidence with the requirements of the applicable rule(s) as well as with the following requirements:

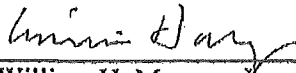
- a. Defendant has established the written procedures set forth above in paragraph 3.e.;
- b. Defendant shall have promptly returned client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Defendant will be deemed to have received any such request 3 days after the date such request is sent to Defendant if the request is sent to the address Defendant provided the Membership Department of the State Bar pursuant to the preceding paragraph;
- c. Defendant disbursed to the proper recipients all identified client funds in any trust account he maintained at the time of his suspension;
- d. Defendant complied with Rule 1.15-2(r) and Chapter 116B of the General Statutes regarding any and all applicable funds in any trust account of Defendant's within 30 days of being statutorily permitted to escheat funds to the State;
- e. Defendant 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;
- f. Defendant 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;

- g. Defendant 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;
- h. Defendant 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;
- i. Defendant came into compliance with any outstanding continuing education or membership obligations at the time of the filing of his petition for reinstatement;
- j. Defendant did not violate any of the Rules of Professional or any laws of the State of North Carolina or of the United States in effect during the period of the suspension;
- k. Defendant 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
- l. If Defendant failed to fully comply with 27 N.C. Admin. Code 1B.0128, Defendant shall reimburse the State Bar for any and all expenses incurred by the State Bar in winding down Defendant'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 Defendant at Defendant's last known address of record with the State Bar. Defendant 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.

Signed by the Chair with the consent of the other Hearing Panel members, this the 26th
day of January, 2021.


Richard V. Bennett, Chair
Disciplinary Hearing Panel


WE CONSENT:



William H. Morgan, Jr.
Defendant

January 21, 2021


Date



Alan M. Schneider
Attorney for Defendant

January 21, 2021

Date



Jennifer A. Porter, Deputy Counsel
Attorney for Plaintiff

January 21, 2021

Date