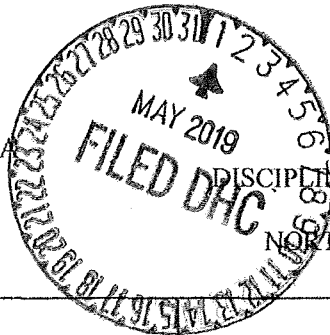


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
19 DHC 3

THE NORTH CAROLINA STATE BAR,
Plaintiff
v.
CHARLES D. COPPAGE, Attorney,
Defendant

CONSENT ORDER
OF
DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Allison C. Tomberlin, Chair, Margaret M. Hunt, and Ronald C. Brinson. Mary D. Winstead represented Plaintiff, the North Carolina State Bar. Defendant, Charles D. Coppage, was represented by Alan M. Schneider. Defendant waives a formal hearing in the above referenced matter. 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 on the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereafter "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.
2. Defendant, Charles D. Coppage (hereafter "Defendant" or "Coppage"), was admitted to the North Carolina State Bar in September 1974 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, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Kill Devil Hills, Dare County, North Carolina.
4. During the times mentioned herein, Defendant maintained two general trust accounts at Southern Bank: an attorney trust account ending in nos. 0205 denominated "Real Estate Trust" for real estate transactions and an attorney trust account ending in nos. 6906 denominated "Client Trust" as a trust account for other client funds.

5. The State Bar conducted a random procedural audit of Defendant's trust accounts on or about October 11, 2013.

6. The audit revealed failures by Defendant to properly monitor and maintain the records for his trust accounts as required by the Rules of Professional Conduct. Specifically, the audit showed the following deficiencies in Defendant's management of his trust accounts:

- (a) Failure to conduct monthly reconciliations of the bank statement balance with the balance shown on Defendant's records for the real estate trust account;
- (b) Failure to conduct quarterly three-way reconciliations by totaling the individual client ledger balances and reconciling those and the general ledger balances with the adjusted bank statement balances for his trust accounts;
- (c) Failure to identify the source of funds if source of funds is not a client on original deposit slips to the bank;
- (d) Failure to identify on checks drawn on the Client Trust account from which client balance funds are drawn; and
- (e) Failure to provide the amended directive on NSF checks to the bank.

7. Following the 2013 procedural audit, the State Bar conducted a limited investigative audit of Defendant's Real Estate Trust account.

8. The investigative audit revealed additional violations of the trust accounting rules including:

- (a) Numerous instances, some of which dated back as far as 2005, of failure to disburse funds to which clients or third persons were entitled; and
- (b) Failure to escheat unidentified or abandoned funds as required by N.C.G.S. § 116B-53.

9. Defendant was deficient in his management of his trust accounts as described in paragraphs 6 and 8 above.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the panel has jurisdiction over Defendant, Charles D. Coppage, and over the subject matter.

2. Coppage'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 as follows:

- (a) By failing to reconcile the bank statement balance with the balance shown on Defendant's records for the Real Estate Trust account monthly, Defendant failed to perform the required monthly reconciliations of the trust account in violation of Rule 1.15-3(d)(2);
- (b) By failing to quarterly total the individual client ledger balances and reconcile those and the general ledger balances with the adjusted bank statement balances for his trust accounts, Defendant failed to perform the required quarterly reconciliations of the trust accounts in violation of Rule 1.15-3(d)(1);
- (c) By failing to identify the non-client source of funds on original deposit slips to the bank, Defendant failed to identify the source of funds if source of funds is not a client on original deposit slips to the bank in violation of Rule 1.15-3(b)(1);
- (d) By failing to identify on trust account checks the client balances from which the funds were drawn, Defendant failed to indicate on items drawn on the trust account the client balances from which the items were drawn in violation of Rule 1.15-3(b)(2);
- (e) By failing to provide the bank with the amended directive, Defendant failed to file with the bank a written directive requiring the bank to report to the executive director of the North Carolina State Bar when an instrument drawn on the trust account was presented for payment against insufficient funds in violation of Rule 1.15-2(k)¹;
- (f) By failing to promptly disburse funds to clients or third persons, Defendant failed to promptly pay or deliver to his clients or third persons as directed by the clients funds to which they were then entitled in violation of Rule 1.15-2(m)²; and
- (g) By failing to escheat unidentified or abandoned funds, Defendant failed to escheat unidentified or abandoned funds in violation of Rule 1.15-2(q)³.

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Coppage has substantial experience in the practice of law.
2. Coppage has no prior disciplinary offenses.
3. Maintaining a trust account in accordance with the Rules of Professional Conduct, including performing the required quarterly reconciliations, is essential to the protection of

¹ Now codified as Rule 1.15-2(l)

² Now codified as Rule 1.15-2(n)

³ Now codified as Rule 1.15-2(r)

entrusted funds. Coppage's disregard for the trust accounting rules placed entrusted funds at risk and had the foreseeable potential to cause significant harm to clients.

4. This disregard for the rules also had the potential to cause significant harm to the standing of the profession in the eyes of clients and 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.

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings of Fact Regarding Discipline, and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B.0116(f)(1) and concludes that the following factors that warrant suspension or disbarment are present:

- (a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable; and
- (b) Negative impact of defendant's actions on clients' or public's perception of the profession.

2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B .0116(f)(2) and concludes that no factors that warrant disbarment are present.

3. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B.0116(f)(3) and concludes that the following are applicable in this matter:

- (a) No prior disciplinary offenses;
- (b) Multiple offenses;
- (c) Full and free disclosure to the hearing panel and cooperative attitude toward the proceedings; and
- (d) Defendant has been licensed to practice law for approximately 45 years.

4. Defendant's failure to properly maintain his trust accounts caused potential significant harm to his clients by failing to properly manage their entrusted funds.

5. The Hearing Panel has considered all lesser sanctions including: censure, reprimand, and admonition, and finds that discipline less than suspension would not adequately protect the public from Defendant's future misconduct because (i) of the gravity of potential significant harm to clients, and (ii) a period of reporting pursuant to a stayed suspension following the reconciliation of the accounts is necessary to ensure Defendant's proper handling of entrusted funds.

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

ORDER OF DISCIPLINE

1. Defendant, Charles D. Coppage, is hereby suspended from the practice of law for two years effective 30 days from service of this order upon Defendant.

2. The two-year suspension is stayed for a period of two years as long as Defendant complies with all of the following conditions:

- (a) Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 30 days of service of the statement of fees and costs upon him;
- (b) Within 90 days of the effective date of this order, Defendant will submit to the State Bar Office of Counsel ("Office of Counsel") an audit report of any and all accounts into which Defendant has deposited client funds ("trust accounts"). This audit report shall be prepared by an accounting professional ("accountant") approved in advance by the Office of Counsel. The audit report must identify the beneficial owners of the funds currently in Defendant's trust accounts and establish whether the balance in the accounts is sufficient to cover all client funds Defendant should be holding in trust.
- (c) Defendant will remedy any deficiencies identified in the audit report and will bring his trust account(s) into compliance with the Rules of Professional Conduct within 10 days of receipt of the audit report. Defendant will submit proof of any remedial action to the State Bar and to the accountant no later than 2 days from the date of such remedial action. Said remediation shall include Defendant personally depositing funds in the trust account to replenish any deficit in the account(s) and properly disbursing entrusted funds.
- (d) If the accountant determines that remedial action is required, the accountant will provide to the Office of Counsel a final audit report certifying that Defendant's trust account(s) are in compliance with the Rules of Professional Conduct no later than 30 days after receipt of the remedial information from Defendant.
- (e) If there are funds in the account for which the beneficial owner(s) cannot be identified, Defendant shall identify, maintain, and account for those unidentified funds until the beneficial owners are determined or until the funds are required by law to be escheated, at which point Defendant shall escheat the funds;
- (f) After the initial audit of existing accounts, Defendant shall have an accounting professional approved in advance by the Office of Counsel audit his trust account(s) on a quarterly basis to ensure Defendant's compliance with the Rules of Professional Conduct.

- (g) After the initial audit of existing accounts Defendant shall provide the Office of Counsel with an accurate quarterly three-way reconciliation for all trust accounts maintained by him. The reconciliations will be performed as described in the State Bar Lawyer's Trust Account Handbook The reconciliations are due no later than 30 days after the end of each quarter (first quarter's report due April 30, second quarter's report due July 30, third quarter's report due October 30, and fourth quarter's report due January 30);
- (h) With the three-way reconciliations, Defendant shall provide the Office of Counsel with: (i) client ledgers for each client whose funds are held in the trust account during that month, (ii) ledger(s) for any personal funds maintained in the trust account(s) for bank or credit card fees, (iii) general ledger(s) for each trust account to which Defendant has access, and (iv) the bank statement(s), cancelled checks and deposit slips for each month for each trust account which Defendant maintains. These reconciliation reports and associated documentation are due on the 15th day of the following month – for example, the three-way reconciliation for the month of January is due February 15th;
- (i) If any three-way quarterly reconciliation report or accountant's quarterly report referenced in paragraph (2)(f) and (g) above reveals any irregularities or deficiencies, Defendant shall take all remedial action necessary to bring the trust account(s) into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the Office of Counsel of the State Bar and to the accountant within 30 days of the date of the reconciliation report or the accountant's report;
- (j) If any of the accountant's quarterly reports referenced in paragraph (2)(f) above note any irregularities or deficiencies in Defendant's handling of entrusted funds, the accountant shall provide a subsequent report regarding whether Defendant's remedial actions were sufficient and whether Defendant's account(s) has been brought into compliance with the Rules of Professional Conduct. The accountant shall provide this report regarding remedial measures to the Office of Counsel within 30 days of Defendant's provision of proof of remedial action;
- (k) Defendant shall comply with any requests from the Office of Counsel to provide any information regarding his trust account(s) or to sign and provide any release or authorization to allow the Office of Counsel to obtain information directly from any bank at which Defendant maintains a trust account, by the deadline stated in the request;
- (l) All accountant evaluations, reports, and services and all reconciliations referred to herein will be completed and submitted at Defendant's sole expense;
- (m) It is Defendant's sole responsibility to ensure the accountant completes and timely submits the reports as required herein. Failure of the accountant to submit any report required by this Order shall be grounds to lift the stay and activate the suspension;

- (n) Within 30 days of the effective date of this order, Defendant shall complete 2 hours of continuing legal education on the topic of trust account management approved by the Office of Counsel of the State Bar. This continuing legal education requirement is in addition to the requirements set out in 27 N.C. Admin. Code 1D.1518;
- (o) On or before June 30 each year the stay is in effect, Defendant shall submit an affidavit certifying to the North Carolina State Bar that all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant or his law firm are administered, to the best of his knowledge, in compliance with the requirements of Rule 1.15 (including all subparts) or that he is exempt from this provision because Defendant does not maintain any trust or fiduciary accounts for North Carolina client funds;
- (p) Defendant shall keep the State Bar Membership Department advised of his current business address, office telephone number, and office e-mail address. Defendant shall notify the State Bar of any change of address within 10 days of such change. His current business address must be a street address, not a post office box or drawer;
- (q) Defendant shall accept all certified mail from the State Bar sent to the address on record with the Membership Department of the State Bar;
- (r) Defendant shall 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;
- (s) Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition that is pending at the time of entry of this order or of which he receives notice after the effective date of this order;
- (t) Defendant shall timely comply with all State Bar continuing legal education requirements and will pay all fees and costs assessed therefore by the applicable deadline;
- (u) Defendant will pay all State Bar and judicial district membership dues, Client Security Fund assessments, and any other related dues, fees, assessments and/or costs by the applicable deadline; and
- (v) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government.

3. Unless Defendant's obligations under this Order are modified by further order of the Disciplinary Hearing Commission, Defendant's obligations under this Order end 2 years from the effective date of the Order provided there are no pending motions or show cause proceedings alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B .0118, the Disciplinary Hearing Commission retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show

cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the 2 year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

4. If Defendant fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted in accordance with 27 N.C. Admin. Code 1B.0118.

5. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Defendant's license at the end of the suspension. Additionally, Defendant must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

- (a) Defendant submitted his law license and membership card to the Secretary of the State Bar within 30 days of the date of the order lifting the stay and/or activating the suspension of his law license;
- (b) Defendant complied with the provisions of 27 N.C. Admin. Code 1B.0128 following entry of the order lifting the stay and/or activating the suspension of his law license;
- (c) Defendant timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (d) That within 15 days of the effective date of the order activating the suspension Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant and obtain such files;
- (e) That Defendant provided within 10 days client files to all clients who made a request for return of their files;
- (f) Defendant kept the State Bar Membership Department advised of his current address and notified the State Bar of any change in address within 10 days of such change;
- (g) Defendant responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within 30 days of receipt or by the deadline stated in the communication, whichever is sooner;
- (h) At the time of his petition for reinstatement, Defendant is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other assessments, charges or surcharges the State Bar is

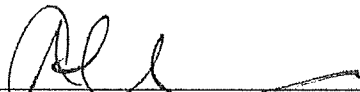
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authorized to collect from him, including all judicial district dues and assessments;

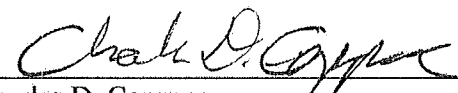
- (i) At the time of his petition for reinstatement, there is no deficit in Defendant's completion of mandatory continuing legal education hours in reporting of such hours or in payment of any fees associated with attendance at continuing legal education programs;
- (j) At the time of his petition for reinstatement, Defendant has completed within the 6 months that immediately preceded his petition for reinstatement 2 hours of continuing legal education on the topic of trust account management approved by the Office of Counsel of the State Bar;
- (k) Defendant did not violate the Rules of Professional Conduct or the laws of the United States, or the laws of any state or local government during his suspension; and
- (l) Defendant participated in good faith in the State Bar's fee dispute resolution process for any petition that was pending at the time of entry of this order or of which he received notice after the effective date of this order.

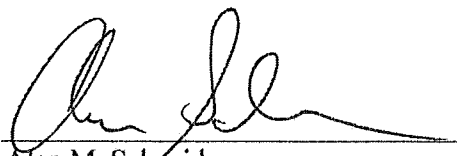
6. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B.0118 until all conditions of the stay of suspension are satisfied.

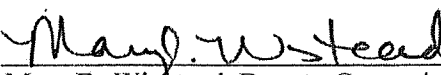
Signed by the Chair with the consent of the other Hearing Panel members this
the 1 day of May, 2019.


Allison C. Tomberlin, Chair
Disciplinary Hearing Panel

WE CONSENT:


Charles D. Coppage
Defendant


Alan M. Schneider
Attorney for Defendant


Mary D. Winstead, Deputy Counsel
Attorney for Plaintiff