



STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
22 DHC 17

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MONICA R. SAVIDGE, Attorney,

Defendant

ORDER OF DISCIPLINE

THIS MATTER was heard on April 27, 2023 before a Hearing Panel of the Disciplinary Hearing Commission composed of Stephanie N. Davis, Chair, and members Margaret M. Hunt and Tywana D. Frazier. Jennifer A. Porter and Kelley A. DeAngelus represented Plaintiff, the North Carolina State Bar. Defendant, Monica R. Savidge, was represented by Alan M. Schneider.

Based upon the pleadings, the stipulated facts, and the evidence admitted at the hearing, 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, Monica R. Savidge (“Savidge” or “Defendant”), was admitted to the North Carolina State Bar in 1995, 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, Savidge was engaged in the practice of law in the State of North Carolina and maintained a law office in Southport, Brunswick County, North Carolina.

4. Savidge was properly served with process, a hearing in this matter was set, and the matter came before the hearing panel with due notice to all parties.

5. On December 18, 2019, Defendant’s trust account ending in the numbers x1911 at the financial institution then known as CresCom Bank (hereinafter TA x1911) was the subject of a random audit by the State Bar.

6. As found in the random audit, in at least the year preceding December 18, 2019, Defendant engaged in the following misconduct:

- a. Failed to conduct monthly and quarterly reconciliations.
- b. Failed to provide NSF directive to bank.
- c. Failed to maintain required check images.
- d. Reconciliation reports not signed and dated by attorney and maintained.
- e. Transaction reviews not completed quarterly and signed by attorney.

7. Subsequent investigation revealed other misconduct by Defendant.

8. Defendant improperly disbursed entrusted funds to herself from TA x1911, as follows:

- a. \$200.00 on January 4, 2017.
 - (1) Defendant disbursed \$200.00 to the operating account from TA x1911 on January 4, 2017.
 - (2) On the general ledger Defendant maintained at that time, Defendant did not attribute this disbursement to a particular client.
 - (3) In later communications to the State Bar, Defendant attributed this disbursement to client D. Kindervatter.
 - (4) Defendant was not entitled to collect any fee from D. Kindervatter on January 4, 2017.
- b. \$300.00 on February 28, 2017.
 - (1) Defendant disbursed \$300.00 to the operating account from TA x1911 on February 28, 2017.
 - (2) On the general ledger Defendant maintained at that time, Defendant did not attribute this disbursement to a particular client.
 - (3) In later communications to the State Bar, Defendant attributed this disbursement to client D. Kindervatter.
 - (4) Defendant was not entitled to collect any fee from D. Kindervatter on February 28, 2017.
- c. \$2,000.00 on September 19, 2017.
 - (1) Defendant disbursed \$2,000.00 to the operating account from TA x1911 on September 19, 2017.
 - (2) Defendant attributed this disbursement to client K. Backus

- (3) Defendant did not have \$2,000.00 in TA x1911 for K. Backus on September 19, 2017.
 - (4) Furthermore, her legal fee for K. Backus would only have been \$1,000.00 and she had not received the required authorization from the Social Security Administration (SSA) to collect a fee from K. Backus at the time of this disbursement.
- d. \$2,000.00 on October 11, 2017.
- (1) Defendant disbursed \$2,000.00 to the operating account from TA x1911 on October 11, 2017.
 - (2) On the general ledger Defendant maintained at that time, Defendant attributed this disbursement to client J. Cathey.
 - (3) Defendant was not authorized to collect any fee from J. Cathey as of that date.
- e. \$600.00 on March 2, 2018.
- (1) Defendant disbursed \$600.00 to her operating account from TA x1911 on March 2, 2018.
 - (2) On the general ledger Defendant maintained at that time, Defendant attributed this disbursement to client A. Cavanaugh.
 - (3) Defendant did not have \$600.00 in TA x1911 for A. Cavanaugh on March 2, 2018.
 - (4) Defendant was not entitled to collect any fee from the funds she did have in TA x1911 for A. Cavanaugh on March 2, 2018.

9. Defendant made misrepresentations in the statements and materials she provided to the State Bar, including in the following circumstances:

- a. Statements regarding funds in trust for D. Kindervatter.
- (1) In Defendant's July 8, 2020 response to the State Bar's letter of notice, Defendant stated she had \$1,000.00 for D. Kindervatter in her trust account.
 - (2) With her July 8, 2020 response to the State Bar's letter of notice, Defendant provided the State Bar with a client ledger for D. Kindervatter.
 - (3) The client ledger falsely showed a \$500.00 deposit on March 22, 2017 that had actually been deposited for a different client.
 - (4) Defendant's letter and ledger indicated she had a \$1,000.00 in the trust account for D. Kindervatter when in fact she only had \$500.00 in her trust account for D. Kindervatter at that time.

- b. Statements regarding Z. Cliff.
- (1) Respondent's fee agreement with Z. Cliff provided for a fee of \$1,000.00, to be held in trust until fee approval by SSA.
 - (2) A credit card deposit in the amount of \$578.85 was made in June 2013 (\$600.00 less processing fees) for Z. Cliff, but the deposit went into Respondent's operating account.
 - (3) However, Defendant listed the deposit on the general ledger she kept for TA x1911.
 - (4) The State Bar asked Defendant about this improper deposit of entrusted funds into her operating account in its June 18, 2021 letter.
 - (5) In Defendant's July 23, 2021 response, she stated "I received a fee authorization for this amount."
 - (6) Defendant had not received fee authorization for this client at the time of the June 2013 deposit into her operating account.
 - (7) Moreover, in her July 2020 response to the letter of notice where she addressed funds in the trust account for Z. Cliff, she stated she was waiting for fee approval by SSA, and on the accompanying client ledger she noted that she had never received fee authorization from SSA.
 - (8) In her December 6, 2021 response to the State Bar's October 29, 2021 inquiries, Respondent claimed she did not know until "reading this letter" that the \$578.85 for Z. Cliff was deposited into the operating account.
 - (9) The State Bar's October 29, 2021 letter was not the first notice to Defendant that the \$578.85 for Z. Cliff was deposited into the operating account.

10. Defendant made other improper disbursements of entrusted funds, including as follows:

- a. Bank charges on September 6, 2012 in the amount of \$17.70 and October 9, 2012 in the amounts of \$19.93 and \$23.43.
- b. L. Villagran – amount disbursed February 20, 2013 exceeded funds in the trust account for the client, creating a deficit until a deposit on February 27, 2013.
- c. H. Etheridge – December 31, 2013 transfer of \$1,000.00 entrusted funds from the trust account to the operating account followed by a \$1,000.00 check from the operating account to the client
- d. H. Etheridge – July 21, 2014 transfer of \$1,500.00 to the operating account which exceeded funds in the trust account for the client.

- e. Re. Hinojales – transfers from July 29, 2014 through August 8, 2014 totaling the client's \$8,000.00 personal injury settlement to the operating account followed by checks from the operating account to or for the benefit of the client.
- f. Ro. Hinojales – transfer on July 29, 2014 of client's \$5,000.00 personal injury settlement to the operating account followed by checks from the operating account to or for the benefit of the client.
- g. A. Holden – transfer of \$2,000.00 of entrusted funds to the operating account on November 1, 2013 followed by checks from the operating account to or for the benefit of the client.

11. Defendant failed to deposit entrusted funds into her trust account, including as follows:

- a. B. Carlson – \$300.00 for court costs and attorney's fee deposited into the operating account on December 7, 2012 prior to completion of the client matter or disbursement of costs from the operating account;
- b. Z. Cliff – \$578.85 deposited into the operating account on June 18, 2013 for attorney's fee to which Defendant was not entitled at that time; it appears Defendant mistakenly believed she deposited it into the trust account based on notation on general ledger she had contemporaneously maintained during her law practice;
- c. L. Folks – \$507.38 for attorney's fee to which Defendant was not entitled unless and until her fee was approved by the Social Security Administration; Defendant transferred these funds to the trust account shortly after deposit into operating account; and
- d. J. Tomsich – court awarded the client \$400.00 in costs which Defendant received from the U.S. Treasury and deposited into her operating account prior to disbursing \$400.00 to the client from her operating account.

12. Defendant failed to promptly deposit entrusted funds into TA x1911 for clients, including for M. Bryant and A. Williamson.

13. Defendant failed to promptly collect earned fees and costs from the trust account for K. Solvey, V. Schilling, J. Moore, and A. Williamson.

14. Defendant improperly deposited earned fees and cost reimbursements into the trust account, later transferred to operating account, for clients including T. Bryant, L. Croll, H. French, L. Griffin, K. Jacobs, C. Leavett, G. Nixon, H. Tolbert, R. Weatherspoon, and A. Williamson.

15. Defendant failed to maintain client ledgers contemporaneously with the deposit and disbursement of funds for client in her trust account.

16. Defendant failed to provide annual accountings to clients for whom she held funds in trust for over a year, including but not limited to Z. Cliff, J. Moore, H. Pittenger, V. Schilling, K. Solvey, B. Viloski, A. Williamson, and K. Wilson.

Based on the foregoing Findings of Fact, 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, Monica R. Savidge, 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 improperly disbursing funds to herself from her trust account, Defendant failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a), (k), and (n)¹ and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation that reflects adversely on the lawyer's fitness as a lawyer in violation of Rule 8.4(c);
- b. By making misrepresentations in responses and materials provided to the State Bar regarding entrusted funds in her trust account, Defendant engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation that reflects adversely on the lawyer's fitness as a lawyer in violation of Rule 8.4(c) and knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a);
- c. By making improper disbursements to others of entrusted funds from her trust account, including disbursements for bank charges, disbursements to the operating account, and disbursements in excess of funds in the trust account for the client, Defendant failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a), (k), and (n);
- d. By failing to maintain in trust entrusted funds for clients for whom she should have had funds in her trust account, Defendant failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a), (k), and (n);
- e. By failing to promptly collect earned fees and cost reimbursements from her trust account, and depositing already earned fees and cost reimbursements into her trust account, Defendant failed to only hold entrusted property in her trust account in violation of Rule 1.15-2(f);

¹ Subsections (k) and (n) of Rule 1.15-2 were previously codified as subsection (j) and (m) of Rule 1.15-2 prior to June 9, 2016. Subsection (k) has now been recodified as subsection (l) of Rule 1.15-2 pursuant to the approval of the Supreme Court of North Carolina on March 1, 2023.

- f. By failing to promptly deposit entrusted funds into her trust account, Defendant failed to deposit entrusted funds into her trust account and failed to properly hold and maintain entrusted funds in violation of Rule 1.15-2(a) and (b);
- g. By failing to maintain contemporaneous client ledgers, Defendant violated Rules 1.15-3(b)(5);
- h. By failing to provide annual accountings to clients for whom she held funds in trust for over a year, Defendant violated Rules 1.15-3(e);
- i. By failing to conduct the required monthly and quarterly reviews and reconciliations of her trust account, failing to create and maintain the required review and reconciliation reports, Defendant violated Rule 1.15-3(d)(1), (2), and (3) and Rule 1.15-3(i)(1), (2), and (5);
- j. By failing to provide a non-sufficient funds directive to her bank, Defendant violated Rule 1.15-2(l); and
- k. By failing to maintain all trust account records required under Rule 1.15-3(b), Defendant violated Rule 1.15-3(b) and (g).

Based on the foregoing Findings of Fact and Conclusions of Law, the stipulated facts, and the evidence presented at the hearing, the Hearing Panel hereby finds by clear, cogent and convincing evidence additional facts as follows:

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 16 above are reincorporated as if set forth herein.

2. The State Bar is entrusted with the privilege of the regulation of the profession and relies upon the members of the Bar to participate in the profession's self-regulation fully and with integrity. Defendant's misrepresentations to the State Bar during the grievance process caused potential significant harm to the profession and the administration of justice by creating the risk that the State Bar would be misled in its investigation and also by creating additional work for the State Bar in its investigation to ascertain the accurate facts.

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 facilitate 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 resulted in her

failure to detect and promptly correct the improper disbursements described above and caused significant harm and potential significant harm to her clients and to the profession by the resulting deficiencies in her trust account.

5. Defendant endeavored to remedy the deficits in her trust account caused by her improper disbursements in September 2018. As a result of these efforts and also as a result of the earned fees Defendant improperly left in the trust account, there are sufficient funds in the trust account to cover the amounts that still need to be maintained in trust for clients.

6. Defendant has no prior discipline.

7. Defendant participated fully in the proceedings before the Disciplinary Hearing Commission.

8. Defendant closed her law office and began working for Legal Aid of North Carolina in April 2019. Defendant does not handle entrusted funds in her role with Legal Aid.

9. The Deputy Director of Legal Aid testified on behalf of Defendant. She confirmed Defendant does not handle entrusted funds in her position. She also explained how Defendant's work product may be accessed and reviewed by her supervisors at any time. The Deputy Director testified about Defendant's excellent character and reputation within their community and about the outstanding value of Defendant's services to the clients of Legal Aid.

10. 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 factors from 27 N.C. Admin. Code 1B.0116(d)(1), which are to be considered in imposing suspension or disbarment, are present in this case:

- a. Factor (C), Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;
- b. Factor (D), Elevation of Defendant's own interest above that of the client;

- c. Factor (E), Negative impact of Defendant's actions on client's and public's perception of the profession;
- d. Factor (I), Acts of misrepresentation.

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, but determined that disbarment was not the appropriate discipline to be imposed 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 disciplinary offenses in the state of North Carolina;
- b. Factor (D), Timely good faith efforts to make restitution or to rectify consequences of misconduct;
- c. Factor (K), Full and free disclosure to the hearing panel or cooperative attitude toward the proceedings before the Disciplinary Hearing Commission;
- d. Factor (N), Submission of false evidence, false statements, or other deceptive practices to the Grievance Committee during the disciplinary process;
- e. Factor (P), Remorse;
- f. Factor (Q), Good character and reputation; and
- g. Factor (S), Significant 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 with conditions is appropriate in this case, in light of the significant harm and potential harm caused by Defendant's conduct to her clients, the profession, and the administration of justice. A stayed suspension with conditions designed to ensure continued compliance with the Rules of Professional Conduct is necessary to protect the public and the profession.

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

- a. The factors under Rule .0116(f)(1) are of a nature that support imposition of a stayed suspension as the appropriate discipline; 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, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. Defendant, Monica R. Savidge, is hereby suspended from the practice of law for three 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). This suspension is stayed from its inception subject 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 administrative fees and costs within 30 days of service upon her of the statement of administrative fees and costs by the Secretary.

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

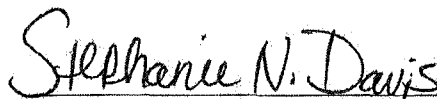
- a. Defendant shall not receive, disburse, or otherwise handle in any way any entrusted property, as defined in Rule 1.15-1(h) of the North Carolina Rules of Professional Conduct;
- b. Defendant shall provide monthly to the State Bar's Office of Counsel an affidavit certifying that she did not handle any entrusted property that month. This affidavit shall be executed and provided to the Office of Counsel by the 5th day of the following month (e.g. the affidavit for January would be due to the Office of Counsel by February 5th);
- c. For each calendar year of the stayed suspension, Defendant shall complete one additional hour of CLE on the topic of trust account management approved in advance by the Office of Counsel. This CLE requirement is in addition to Defendant's other CLE requirements. Defendant shall provide documentation of the completion of this requirement each year within 30 days of having completed the trust account management CLE;
- d. Defendant shall keep the State Bar's Membership Department advised of her current business address, which address must be a street address, not a post office box or drawer;
- e. Defendant shall notify the State Bar of any change of address within 10 days of such change;
- f. 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;

- g. Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which she has already received notice or of which she receives notice after the effective date of this Order; and
- h. Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or any state or local government.

4. 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 23rd day of MAY, 2023.



Stephanie N. Davis, Chair
Disciplinary Hearing Panel