

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 21 DHC 24R

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

KELLY R. ROUTH, Attorney,

Defendant

CONSENT ORDER STAYING SUSPENSION

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Shannon R. Joseph, Chair, Jaye P. Meyer, and Kimberly W. Strach. Plaintiff was represented by Savannah B. Perry. Defendant, Kelly R. Routh ("Routh"), was represented by Alan M. Schneider. The parties stipulate to the findings of fact set forth herein.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following:

Findings of Fact

1. By Order of Discipline entered 30 November 2022, Routh was suspended for five years from the practice of law, effective 30 December 2022.
2. The Order of Discipline provided that Routh would be eligible to apply for a stay of the remaining period of suspension after serving no less than one year of active suspension upon compliance with conditions stated in the Order of Discipline.
3. As of 30 December 2023, Routh had served one year of active suspension.
4. On 8 December 2023, Routh filed a verified motion requesting a stay of the remaining period of her suspension and seeking reinstatement to active status subject to conditions and requirements set forth in the Order of Discipline.
5. In her motion, Routh verified that she had satisfied all conditions for a stay of the remaining period of suspension set out in the Order of Discipline.
6. Routh complied with the requirements of 27 N.C.A.C. 1B § .0129(b) and the conditions in the Order of Discipline.

Based upon the foregoing Findings of Fact, the Hearing Panel hereby makes the following:

Conclusions of Law

1. All parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over Defendant, Kelly R. Routh, and the subject matter of this proceeding.

2. Defendant, Kelly R. Routh, has satisfied the requirements set out in Rule .0118(c) of the North Carolina State Bar Discipline and Disability Rules and the conditions in the Order of Discipline for a stay of her suspension.

THEREFORE, it is hereby ORDERED:

1. Routh's 8 December 2023 Verified Motion to Stay the Balance of the Suspension is **ALLOWED**, the balance of the suspension of her law license is stayed, and she shall be permitted to resume practicing law effective 1 January 2024 subject to the conditions set forth in paragraph 2, below.

2. The remaining period of Routh's five year suspension of her license to practice law is stayed as long as she complies and continues to comply with the following conditions during the stay:

- a) Each month Routh shall provide the Office of Counsel with the three-way reconciliation described in the State Bar Lawyer's Trust Account Handbook, using the Trust Account Reconciliation sheet currently available on the State Bar's website, for all trust accounts she maintains. Routh shall provide (i) the three-way reconciliation report, (ii) client ledgers for all clients with funds in the trust account(s) during that month as may be requested by the Office of Counsel, (iii) an administrative ledger for any personal funds maintained in the trust account(s) for bank or credit card fees, (iv) trust account general ledger for each trust account, (v) multiple balance ledger report (report listing balance of funds maintained in trust for each client during reporting period), (vi) the bank statements, (vii) copies of cancelled checks, (viii) lists of outstanding deposits and outstanding checks. These documents are due on the fifteenth day of the following month – for example, the three-way reconciliation for the month of January is due on February 15;
- b) Within thirty days after obtaining a stay of the suspension, Routh shall retain a trust account monitor or certified public accountant ("CPA"), approved in advance by the Office of Counsel, who shall independently audit her trust account(s). Any CPA retained must be in good standing with the North Carolina State Board of Certified Public Accountant Examiners;
- c) Each quarter, Routh shall have the trust account monitor or CPA audit all trust accounts maintained by Routh. Routh shall provide to the trust account

monitor/CPA copies of her monthly three-way reconciliations and supporting documentation. This audit shall assess whether Routh has in her trust account the client funds she is required to maintain for her clients at that time, as well as Routh's compliance with all requirements of Rule 1.15-2 and Rule 1.15-3. Each quarter the trust account monitor/CPA shall include with the audit report a completed Trust Account Review Report Template, which will be provided by the State Bar to Routh and shall identify any deficiencies in Routh's compliance with Rule 1.15-2 and Rule 1.15-3. The quarterly audit reports from the trust account monitor/CPA are due to the Office of Counsel no later than thirty 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 or before April 30. It is Routh's sole responsibility to ensure that the trust account monitor/CPA completes and timely submits the reports required herein. Routh shall bear the cost of preparation and submission of these reports;

- d) Routh shall pay all costs and/or fees, if any, charged by the trust account monitor/CPA for his/her services, including any costs for preparation and submission of reports associated therewith;
- e) If either the monthly three-way reconciliation report or the audit reveals any deviation from Routh's obligations under Rule 1.15-2 or Rule 1.15-3, Routh shall take remedial action within ten days of the date of the three-way reconciliation report or the trust account monitor/CPA audit and shall provide to the Office of Counsel documentation showing the remedial action taken within two days of the date of the remedial action;
- f) Routh shall provide any records or information regarding her trust account(s) requested by the Office of Counsel and, when requested by the Office of Counsel to do so, sign and provide any release or authorization to allow the Office of Counsel to obtain information directly from any bank in which Routh maintains a trust account, within ten days of the request or by the deadline stated in the request, whichever is sooner;
- g) If, at any point during the pendency of the stay of the suspension, Routh ceases handling entrusted or fiduciary funds and maintaining an attorney trust account, Routh shall submit to the Office of Counsel copies of all her current fee agreement templates and, on a monthly basis, an affidavit certifying that she did not handle any entrusted or fiduciary funds in that month. This affidavit shall be executed on the last day of each month and provided to the Office of Counsel by the fifth day of the following month (e.g. the affidavit for March would be executed on March 31st and provided to the Office of Counsel by April 5th). This affidavit shall be in lieu of the three-way reconciliation report and trust account monitor/CPA audit required in paragraphs 2(a) and 2(c) above for any period in which Routh did not handle entrusted funds or fiduciary funds. For as long as Routh is not handling any

entrusted funds or fiduciary funds and is not maintaining an attorney trust account, the requirements of paragraph 2(a) and 2(c) above shall be tolled;

- h) Routh shall keep the North Carolina State Bar Membership Department advised of her current physical business and home addresses (not post-office box or drawer addresses), telephone number(s), and e-mail address(es). Routh shall notify the State Bar Membership Department of any change within ten days of such change;
- i) Routh shall accept all certified mail from the North Carolina State Bar sent to the address on record with the State Bar Membership Department;
- j) Routh shall provide full and complete responses to and all requested documentation in response to all communications from the North Carolina State Bar, including letters of notice, requests for information, and communications from the Attorney Client Assistance Program, within fifteen days of receipt of such communication or by the deadline stated in the communication, whichever is sooner, and participate in good faith in the State Bar's fee dispute resolution process for any petition filed with ACAP;
- k) Routh shall timely comply with all North Carolina State Bar CLE requirements as set forth in 27 N.C. Admin. Code 1D.1518 and pay all fees and costs assessed therefor by the applicable deadline. Routh shall provide proof of the same to the Office of Counsel within ten days of completing the courses;
- l) Routh shall pay all North Carolina State Bar membership dues, fees, and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from her, including all judicial district dues, fees, and assessments. Routh shall provide proof that she paid such dues, fees, and/or costs to the State Bar Office of Counsel within ten days of paying them;
- m) Routh shall not violate the Rules of Professional Conduct of North Carolina or of any other jurisdiction in which she is or may become licensed to practice law or the laws of the United States or of any state or local government, other than minor traffic violations.

3. If during the stay Routh fails to comply with any one or more of the conditions stated in paragraph 2 above, then the stay of the suspension of her law license may be lifted as provided in 27 N.C.A.C. 1B § .0118 of the North Carolina State Bar Discipline and Disability Rules.

4. If the stay granted herein is lifted and the suspension of Routh's license is activated for any reason, Routh may, after serving the activated suspension, move for a stay if provided for in the order activating the suspension pursuant to 27 N.C.A.C. 1B § .0118 or may

petition for reinstatement by filing a petition pursuant to 27 N.C.A.C. 1B § .0129. For any stay or reinstatement, Routh must demonstrate compliance with the requirements of the order activating the suspension, the applicable rules, as well as the following requirements by clear, cogent, and convincing evidence:

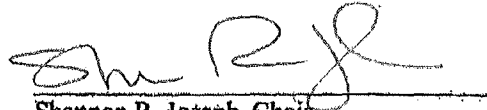
- a) That Routh paid the administrative fees and costs of this proceeding, including, but not limited to, all deposition costs and the court reporters' appearance fees, within thirty days of service of the notice of costs upon Routh at her address of record;
- b) That Routh surrendered her law license and membership card to the Secretary of the North Carolina State Bar no later than thirty days following service of this Order upon her;
- c) That Routh complied with the wind down provisions of 27 N.C. Admin. Code 1B.0128;
- d) That, in connection with the wind down of her law practice, Routh made a motion in Wake County Superior Court Case No. 21 CVS 5749 to disburse all funds presently maintained in her trust account to the rightful recipients.
- e) That Routh completed by 1 August 2023 a course on law office management training approved in advance by the North Carolina State Bar Office Counsel ("Office of Counsel") and also provided written proof of such course completion to the Office of Counsel on or before 1 August 2023.
- f) That Routh kept the North Carolina State Bar Membership Department advised of her current physical business and home addresses (not post-office box or drawer addresses), telephone number(s), and email address(es) and notified the State Bar Membership Department of any changes within ten days of such change;
- g) That Routh accepted all certified mail from the North Carolina State Bar sent to the address on record with the State Bar Membership Department;
- h) That Routh provided full and complete responses to all communications from the North Carolina State Bar, including letters of notice, requests for information, and communications from the Attorney Client Assistance Program ("ACAP"), within fifteen days of Routh's receipt of the communication or by the deadline stated in the communication, whichever is sooner, and participated in good faith in the State Bar's fee dispute resolution process for any petition filed with ACAP;
- i) That Routh remained current in payment of all North Carolina State Bar membership dues, fees, and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from her, including all judicial district dues, fees, and assessments

incurred during the length of Routh's suspension to the date of her filing a motion in the cause; and

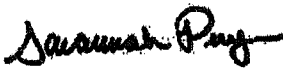
- j) That Routh did not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government, other than minor traffic violations, during the active suspension.

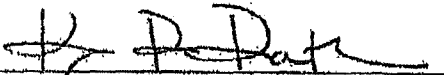
5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0118(a) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.


Signed by the Chair with the consent of the other hearing panel members, this the 12th day of December 2023.


Shannon R. Joseph, Chair
Disciplinary Hearing Panel

Agreed and consented to by:


Savannah B. Perry
Attorney for Plaintiff


Kelly R. Routh
Defendant


Alan M. Schneider
Attorney for Defendant