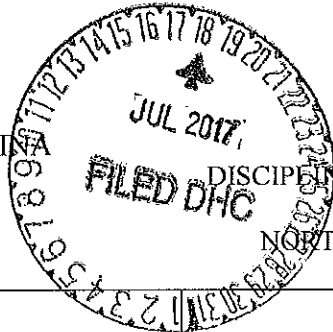


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 11

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ROBERT G. RAYNOR, JR., Attorney,

Defendant

CONSENT ORDER OF
DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of David W. Long, Chair, and members N. Hunter Wyche, Jr., and Tyler B. Morris, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Plaintiff was represented by Maria J. Brown. Defendant, Robert G. Raynor, Jr., appeared *pro se*. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant has freely and voluntarily stipulated to the foregoing findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters 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, Robert G. Raynor, Jr. ("Raynor" or "Defendant"), was admitted to the North Carolina State Bar on 14 September 1984 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 New Bern, Craven County, North Carolina.

4. Defendant maintains one attorney trust account, Wells Fargo Bank trust account ending in no. 3813 (hereinafter "Wells Fargo trust account").

5. On 18 June 2015, Defendant was the subject of a random audit of his trust account.

6. The random audit showed deficiencies in Defendant's management of his trust account, including:

- a. Failure to conduct quarterly reconciliations;
- b. Failure to balance monthly bank statements with attorney records;
- c. Failure to escheat unidentified funds/abandoned funds as required by N.C. Gen. Stat. § 116B-53; and
- d. Failure to promptly remove earned fees and costs from the trust account.

7. Defendant had previously been the subject of random audits in 2008, 1999, and 1993.

8. In all four audits, the auditor found Defendant failed to reconcile his trust account monthly and/or quarterly.

9. In conjunction with the 2008 audit, Defendant reported to the auditor that, as of 26 January 2009, he had \$7,103.88 in his trust account for which he could not account.

10. On 1 June 2009, Defendant reported to the auditor that, as of 27 February 2009, his trust account contained \$7,702.10 for which he could not account and that he was hiring a CPA to help him determine to whom those funds belonged.

11. The CPA who examined Defendant's trust account noted in a 23 July 2009 report that Defendant had unidentified funds in his trust account that predated 1 January 2004.

12. The CPA recommended in the 23 July 2009 report that Defendant escheat the unidentified balances that were more than five years old.

13. By letter to the State Bar auditor dated 27 July 2009, Defendant pledged to "correct all noted deficiencies discovered during the course of the review of [his] trust account."

14. Defendant's November 2015 trust account reconciliation, dated 12 December 2015, reflected that he held in his trust account \$1,010.00 as "Money due attorney from 2008 audit."

4. Defendant's November 2015 trust account reconciliation, dated 12 December 2015, reflected that he held in his trust account \$3,098.72 as "Total monies to escheat from 2008."

Based upon the consent of the parties and the foregoing stipulated 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 and the subject matter of this proceeding.
2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:
 - (a) By failing to total the individual client balances in his trust account and compare the total with his current bank statement balance for his trust account, Defendant failed to conduct the required quarterly reconciliations of his trust account in violation of Rule 1.15-3(d)(1);
 - (b) By failing to compare the balance of his trust account as shown in his records with his current bank statement balance for his trust account, Defendant failed to conduct the required monthly reconciliations of his trust account in violation of Rule 1.15-3(d)(2);
 - (c) By failing to make due inquiry to determine the identity and location of the owner of unidentified funds in his trust account and then failing to appropriately disburse or escheat the funds, Defendant failed to properly disburse or escheat unidentified or abandoned funds in his trust account in violation of Rule 1.15-2(q) (presently codified as Rule 1.15-2(r)); and
 - (d) By failing to remove earned fees or costs from his trust account promptly, Defendant failed to maintain entrusted property separate from his property in violation of Rule 1.15-2(a).

Upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant has no prior professional discipline.
2. Defendant fully cooperated with all of the State Bar's inquiries regarding these matters.
3. Defendant's conduct concerning the trust accounting Rules demonstrates an ongoing lack of understanding or disregard of the Rules regarding the safeguarding of client funds.

4. Defendant's decades-long lack of compliance with the Rules creates a threat of significant harm to his clients.

5. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

CONCLUSIONS WITH RESPECT TO DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension of Defendant's license:

(a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes no factors are present in this instance that would warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

(a) Defendant's lack of prior disciplinary offenses;

(b) Absence of a dishonest or selfish motive;

(c) A pattern of misconduct;

(d) Multiple offenses;

(e) Defendant's cooperative attitude toward the proceedings; and

(f) Degree of experience in the practice of law.

4. Defendant's conduct, if continued or tolerated by the Bar, poses significant potential harm to future clients.

5. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient discipline because of the gravity of the potential harm to the clients. The Panel further concludes that such discipline would fail to adequately protect the public and send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

6. This Hearing Panel has considered lesser alternatives and concludes that a stayed suspension is necessary to ensure Defendant complies with necessary conditions to avoid significant harm or the potential for significant harm to clients.

7. For these reasons, this Hearing Panel finds that an order imposing discipline short of a stayed suspension of Defendant's law license would not be appropriate.

Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Robert G. Raynor, Jr., is hereby suspended from the practice of law for one year, effective 30 days from service of this order upon Defendant.

2. The one year suspension is stayed for a period of two years as long as Defendant complies, and continues to comply, with the following conditions each year the stay is in effect:

- (a) To ensure Defendant's compliance with Rule 1.15 of the Rules of Professional Conduct:
 - i. During the period of stayed suspension, Defendant will retain the services of Janice Fonville Stokes or another accountant satisfactory to the State Bar to conduct a quarterly review of the status of any accounts into which Defendant has deposited client or fiduciary funds. Each quarter Defendant will deliver to the Office of Counsel a quarterly report prepared and signed by the accountant certifying that Defendant has reconciled each account with the bank balance, that he has maintained client ledgers identifying all funds in each account, and that Defendant is otherwise meeting all requirements of Rule 1.15 of the Rules of Professional Conduct;
 - ii. Defendant is to submit such quarterly reports by each April 15, July 15, October 15, and January 15 during the period of the stay and shall provide the accountant the information necessary to prepare such quarterly reports;
 - iii. In addition to the required quarterly reports, for the months covered by each quarterly report, Defendant shall provide to the State Bar: (i) client ledgers for each client whose funds are held in the trust account during the quarter, (ii) ledger 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, cancelled checks and deposit slips for each trust account which Defendant maintains;

- iv. If any quarterly report 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 within 30 days of the date of the report;
 - v. Defendant shall provide any other records requested by the Office of Counsel within ten days of the request; and
 - vi. All reports referred to herein will be completed and submitted at Defendant's sole expense;
- (b) On or before July 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;
 - (c) In addition to the CLE requirements set out in 27 N.C. Admin. Code 1D § .1518, Defendant shall, within one year of the effective date of this Order, successfully complete four hours of Continuing Legal Education (CLE) in the area of trust account management, one hour of which shall be a trust account CLE taught by Trust Account Compliance Counsel for the North Carolina State Bar. The courses proposed to fulfill the requirements of this paragraph must be approved in advance by the Office of Counsel and will be at Defendant's own expense. Defendant shall provide written proof of successful completion of the trust account management courses to the Office of Counsel within 10 days of completion of each course;
 - (d) Defendant shall pay all Membership dues and comply with all Continuing Legal Education requirements;
 - (e) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
 - (f) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and shall notify the Bar of any change in address within ten days of such change;
 - (g) Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which she receives notice after the effective date of this Order;
 - (h) Defendant shall promptly accept service of all certified mail that is sent to him from the State Bar;

- (i) Defendant shall timely comply with all State Bar Membership and Continuing Legal Education requirements; and
- (j) Defendant shall pay all costs and administrative fees of this action within 30 days of service of the statement of fees and costs upon him.

3. Failure of the Defendant to timely submit any document required by this Order shall be grounds to lift the stay and activate the suspension.

4. If during the stay of the suspension Defendant fails to comply with any one or more of the conditions stated above, the stay of the suspension of his law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

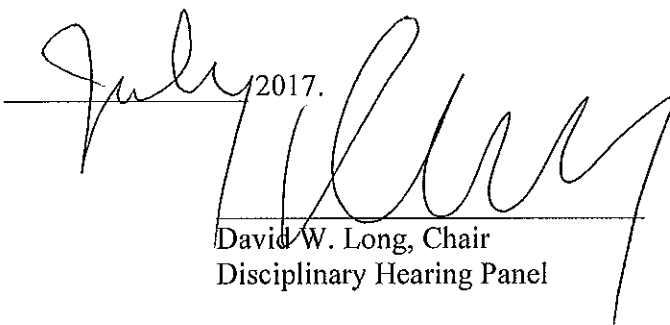
5. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may apply for reinstatement after serving the activated suspension by filing a petition pursuant to § .0125 of the North Carolina State Bar Discipline and Disability Rules, demonstrating compliance with the requirements therein as well as the following requirements by clear, cogent, and convincing evidence:

- (a) Defendant properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the State Bar Discipline & Disability Rules;
- (b) 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;
- (c) 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;
- (d) 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;
- (e) Defendant has come into compliance with any outstanding CLE or membership obligations at the time of the filing of his petition for reinstatement;
- (f) Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- (g) Defendant did not violate any laws of the State of North Carolina or of the United States during the period of the suspension; and
- (h) 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.

6. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end two years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC 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 two 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.


Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

This the 19 day of July 2017.




David W. Long, Chair
Disciplinary Hearing Panel

Agreed and consented to by:



Maria J. Brown
Attorney for Plaintiff



Robert G. Raynor, Jr.
Defendant