

STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE
DISCIPLINARY HEARING COMMISSION
OF
THE NORTH CAROLINA STATE BAR
24 DHC 12N

THE NORTH CAROLINA STATE BAR,
Petitioner

v.

ERIN JUSTINE PHILLIPS, Attorney,
Respondent

ORDER SUSPENDING
RESPONDENT'S LAW LICENSE
FOR NONCOMPLIANCE

This matter was considered by the Chair of the Disciplinary Hearing Commission pursuant to the North Carolina State Bar Discipline and Disability Rules, 27 N.C. Admin. Code 1B.0135. Petitioner, the North Carolina State Bar, was represented by G. Patrick Murphy. Respondent, Erin Justine Phillips, was not represented, did not make an appearance in this matter, and did not file a response to the Order to Show Cause for Grievance Noncompliance served upon her.

Based on the filings, the Chair of the Disciplinary Hearing Commission finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency 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. Respondent, Erin Justine Phillips, was licensed to practice law in North Carolina in 2017 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. The State Bar's membership database shows the following address and email on record for Respondent: P.O. Box 3308, Cashiers, North Carolina, 28717 and *ephillips@plateaulaw.com*.
4. All email communication sent to and received from Respondent regarding the matters that follow have been through her State Bar membership email address on record, *ephillips@plateaulaw.com*.
5. On January 11, 2024, Petitioner sent Respondent a Letter of Notice ("Letter of Notice") in grievance file no. 23G1395 to *ephillips@plateaulaw.com*.

6. On January 23, 2024, Respondent accepted service of the Letter of Notice.
7. Respondent's response to the Letter of Notice was due within 15 days of receipt of the Letter of Notice, which was February 7, 2024.
8. Respondent did not respond to the Letter of Notice by February 7, 2024.
9. By email dated March 4, 2024, the State Bar sent Respondent a letter regarding the status of the overdue response.
10. The March 4, 2024, letter recited a deadline of March 11, 2024, for Respondent to respond to the Letter of Notice.
11. Respondent did not reply to the March 4, 2024, email.
12. Respondent did not respond to the Letter of Notice by March 11, 2024.
13. On or about January 30, 2024, First Citizens Bank reported to the State Bar that on January 24, 2024, and again on January 29, 2024, Respondent's trust account balance was insufficient to cover check no. 1248 in the amount of \$27,019 drawn on Respondent's trust account when presented for payment. The check was either paid into the overdraft or returned for insufficient funds ("NSF").
14. On February 9, 2024, Petitioner opened an NSF investigation, assigned file no. 24NSF0016, and emailed Respondent at *ephillips@plateaulaw.com*, seeking information about the NSF and included correspondence requesting a detailed explanation of the circumstances surrounding the NSF, a copy of the bank statement(s) reflecting the payment that was returned, copies of checks that were returned for NSF, deposit slips/tickets documenting the replenishment of funds, and any other documentation necessary to explain the NSF.
15. On February 27, 2024, Respondent responded to the February 9 email stating, "I have only today I [*sic*] located this email in my outlook folders I will provide a thorough response no later than tomorrow, Feb 28th." Respondent's response was sent from *ephillips@plateaulaw.com*.
16. After Respondent did not respond as stated, a second email was sent on March 11, 2024, reminding Respondent to respond to the NSF notice.
17. As part of Petitioner's investigation into the NSF, on March 26, 2024, the State Bar filed a Motion for Temporary Restraining Order and Petition for Preliminary Injunction ("Motion") in Wake County Superior Court against Respondent to enjoin her First Citizens Bank trust account, *The North Carolina State Bar v. Erin Justine Phillips*, 24 CVS 10048-910.
18. On March 31, 2024, Respondent replied to a March 27, 2024, email from Petitioner regarding the Motion.

19. In her March 31, 2024, email from *ephillips@plateaulaw.com*, Respondent acknowledged that she had not responded to the allegations in grievance file no. 23G1395 by stating, "I also realize that I have failed to provide a response regarding a former client's complaint related to a one line error in a document establishing a trust for the client" and "I will review the complaint thoroughly today now that I have regained access [to email] and answer as thoroughly as the complaint may call for."

20. On April 1, 2024, Respondent replied to an April 1, 2024, email from Petitioner concerning her agreement to sign a Consent Order of Preliminary injunction.

21. In her April 1, 2024, email from *ephillips@plateaulaw.com*, Respondent reiterated that, "I am in the process of restoring my emails and electronic documents from my secure data storage to a new laptop in order to provide the bar complete responses to all pending and overdue inquiries."

22. On April 5, 2024, Respondent returned a signed copy of the Consent Order of Preliminary Injunction ("Consent Order") by email from *ephillips@plateaulaw.com*.

23. The Consent Order was entered in 24 CVS 10048-910 on April 8, 2024, and was served on Respondent by email and U.S. Mail at the address on record with the State Bar's membership database.

24. Records pursuant to the Consent Order were to be produced by April 24, 2024.

25. Respondent did not produce records to Petitioner by April 24, 2024.

26. On May 8, 2024, Petitioner emailed Respondent at *ephillips@plateaulaw.com* to inquire about her intent to comply with the Consent Order.

27. Respondent did not respond to Petitioner's May 8, 2024, email.

28. Respondent has not complied with the Consent Order entered in 24 CVS 10048-910.

29. Respondent has not responded to the Letter of Notice with which she has been served in grievance file 23G1395.

30. On June 21, 2024, after Respondent failed to respond to the Letters of Notice in grievance file 23G1395, Petitioner filed a petition with the Disciplinary Hearing Commission ("DHC") setting forth the efforts made by the State Bar seeking Respondent's compliance and seeking entry of an order directing Respondent to show cause why her law license should not be suspended for noncompliance pursuant to 27 N.C. Admin. Code 1B.0135.

31. The petition was supported by the affidavit of State Bar Investigator Martin Coolidge.

32. On June 24, 2024, the DHC entered an Order ("Order") directing Respondent to show cause within 14 days of the date of service of the Order upon Respondent why her law license should not be suspended for noncompliance.

33. Respondent was properly served with the Order, pursuant to 27 N.C. Admin. Code 1B.0135(d)(4), on June 24, 2024.

34. The Order warned Respondent that failure to respond to the Order may result in the suspension of her law license.

35. Respondent did not respond to the Order.

36. Respondent has not shown she is in compliance, has not cured her noncompliance with the State Bar, and has not shown good cause for her noncompliance.

Based on the foregoing Findings of Fact, the Chair makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Chair of the Disciplinary Hearing Commission, and the Disciplinary Hearing Commission has jurisdiction over Respondent, Erin Justine Phillips, and over the subject matter of this proceeding.

2. Pursuant to 27 N.C. Admin. Code 1B.0135(e)(3), the respondent did not file a response to the order to show cause within 14 days of the date of the service of the order to show cause upon the respondent, therefore the Chair of the DHC may enter an order suspending the respondent's law license.

3. The State Bar met its burden of proof by establishing by clear, cogent, and convincing evidence that Respondent is noncompliant in grievance file no. 23G1395.

4. Because the Respondent failed to file a response to the order to show cause, she did not meet her burden of proof to establish that she was and is in compliance, that she fully cured all noncompliance, or that there is good cause for her noncompliance. None of these three circumstances have been established in this case.

5. Respondent is noncompliant in grievance file no. 23G1395 as defined in 27 N.C. Admin. Code 1B.0135(a).


6. Respondent's noncompliance is grounds for the suspension of her law license pursuant to 27 N.C. Admin. Code 1B.0135(e)(3) and (g).

Based upon the foregoing Findings of Fact, and Conclusions of Law, the Chair of the Disciplinary Hearing Commission enters the following:

ORDER

1. Respondent, Erin Justine Phillips, is hereby suspended from the practice law.
2. This order shall be effective 30 days after it is served on Respondent by mailing a copy of the order by regular mail to the following address: P.O. Box 3308, Cashiers, North Carolina, 28717.
3. Respondent shall comply with all the wind-down provisions of 27 N.C. Admin. Code 1B.0128, as provided in 27 N.C. Admin. Code 1B.0135(h).
4. Any petition by Respondent to be reinstated to the practice of law shall be governed by 27 N.C. Admin. Code 1B.0135(i).

This the 11th day of July, 2024.


Stephanie N. Davis, Chair
Disciplinary Hearing Commission
The North Carolina State Bar