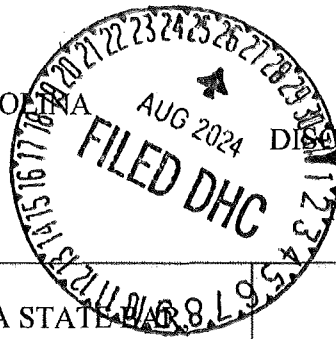


**The North Carolina State Bar v.
Richard E. Batts 24 DHC 1**

**THIS MATTER IS
TEMPORARILY
STAYED BY COURT
OF APPEALS**

STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
24 DHC 1

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

RICHARD E. BATTS, Attorney,

Defendant

ORDER OF DISCIPLINE

THIS MATTER was heard on August 15, 2024 before a Hearing Panel of the Disciplinary Hearing Commission composed of Jaye P. Meyer, Chair, and members Irving L. Joyner and Hampton M. Billips. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant appeared *pro se*.

The Findings of Fact and Conclusions of Law for the adjudicatory phase of this case were previously entered by Order Entering Findings of Fact and Conclusions of Law filed August 1, 2024 based upon Defendant's admissions and the grant of partial summary judgment. As recited in the Order Entering Findings of Fact and Conclusions of Law filed August 1, 2024, the Hearing Panel found 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, Richard E. Batts ("Batts"), was admitted to the North Carolina State Bar in 1981, 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, Batts was engaged in the practice of law in the State of North Carolina and maintained a law office in Rocky Mount, Nash County, North Carolina.

4. During all or part of the relevant periods referred to herein, Batts maintained an attorney trust account at Wells Fargo Bank, N.A., account number ending in numbers 1466 (“TA 1466”).

5. For some time, including at least since about July 2021, Defendant has not reconciled TA 1466 in a manner compliant with the monthly reconciliation requirements contained in Rule 1.15-3(d) of the Rules of Professional Conduct by comparing the balance for TA 1466 in his records with the bank statement balance each month, nor maintained the required associated reconciliation reports.

6. For some time, including at least since about July 2021, Defendant has not reconciled TA 1466 in a manner compliant with the quarterly reconciliation requirements contained in Rule 1.15-3(d) of the Rules of Professional Conduct by comparing the total of positive subsidiary trust account ledger balances with the general ledger balance and adjusted bank balance for TA 1466, nor maintained the required associated reconciliation reports.

7. For some time, including at least since about July 2021, Defendant did not create and maintain a report for any monthly reviews conducted of the bank statements and checks for TA 1466.

8. For some time, including at least since about July 2021, Defendant has not maintained accurate client ledgers containing entries for all receipts into and disbursements from TA 1466 for the client and the running current balance of funds in TA 1466 for the client in a manner compliant with the requirements contained in Rule 1.15-3(b)(5) of the Rules of Professional Conduct.

9. For some time, including but not limited to in June 2022, Defendant deposited personal injury settlement funds received for clients into his operating account at Wells Fargo, account ending in numbers 1474 (OA 1474), including but not limited to as follows:

- a. For client C. Massenburg, check for \$9,500.00 from State Farm Mutual Automobile Insurance Company made payable to C. Massenburg and Defendant, deposited into OA 1474 on or about June 15, 2022;
- b. For client J. Chambers, check for \$21,000.00 from Liberty Mutual Insurance made payable to J. Chambers and Defendant, deposited into OA 1474 on or about June 23, 2022; and
- c. For client O. Wonson, check for \$12,001.00 from Dairyland payable to O. Wonson and Defendant, deposited into OA 1474 on or about June 28, 2022.

10. When Defendant deposited personal injury settlement proceeds into his operating account, he then subsequently transferred to TA 1466 only the amounts to be paid to the client and/or third parties for the client, including but not limited to as follows:

- a. For client C. Massenburg, \$6,292.08 transferred from OA 1474 to TA 1466 on or about June 17, 2022;

- b. For client J. Chambers, \$14,000.00 transferred from OA 1474 to TA 1466 on or about June 27, 2022; and
- c. For client O. Wonson, \$8,000.67 transferred from OA 1474 to TA 1466 on or about June 30, 2022.

11. Defendant subsequently disbursed funds from TA 1466 for the personal injury clients identified in the preceding paragraphs to the clients and to third parties for the clients.

12. For some time, including from April through November 2022, Defendant received funds from clients into his personal PayPal account, including entrusted funds.

13. Defendant did not promptly transfer entrusted funds from clients from his PayPal account to TA 1466, including from April through November 2022.

14. When Defendant did transfer funds from his PayPal account to TA 1466, he made transfers of funds consisting of more than one client's funds.

15. When Defendant made transfers of funds consisting of more than one client's funds from his PayPal account to TA 1466, he did so in a manner that failed to identify the clients for whom funds were being deposited into TA 1466 and in what respective amounts.

16. In November 2022, Defendant disbursed more funds from TA 1466 than he had in TA 1466, resulting in a negative balance in TA 1466 and an overdraft fee in TA 1466 on November 7, 2022.

17. Defendant attributed the lack of funds in TA 1466 to an accumulation of funds for clients in his PayPal account that he had not transferred to TA 1466.

As recited in the Order Entering Findings of Fact and Conclusions of Law filed August 1, 2024, based upon the foregoing Findings of Fact, the Hearing Panel entered the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Richard E. Batts, 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 failing to reconcile the balance of TA 1466 as shown in Defendant's records with the bank balance for TA 1466 each month, Defendant failed to conduct the required monthly reconciliations of TA 1466 in violation of Rule 1.15-3(d);
- b. By failing to reconcile the total of all positive subsidiary trust account ledger balances with the general ledger balance and the adjusted bank balance for TA 1466

each quarter, Defendant failed to conduct the required quarterly reconciliations of TA 1466 in violation of Rule 1.15-3(d);

- c. By failing to maintain reports for reconciliations and reviews conducted of TA 1466, Defendant failed to maintain required reports in violation of Rule 1.15-3;
- d. By failing to maintain accurate client ledgers containing entries for all receipts into and disbursements from TA 1466 for the client and the running current balance of funds in TA 1466 for the client, Defendant failed to maintain required ledger records in violation of Rule 1.15-3(b)(5);
- e. By depositing entrusted funds into his operating account rather than into TA 1466, Defendant failed to deposit entrusted funds into a trust account in violation of Rule 1.15-2(b) and failed to deposit mixed funds into a trust account in violation of Rule 1.15-2(h)¹;
- f. By failing to promptly transfer entrusted funds from his PayPal account to TA 1466, Defendant failed to deposit entrusted funds into a trust account in violation of Rule 1.15-2(b) and failed to properly maintain entrusted funds in violation of Rule 1.15-2(a);
- g. By transferring funds from his PayPal account to TA 1466 in a manner that failed to identify the client(s) for whom the funds were being deposited into the trust account and in what respective amounts, Defendant failed to identify the client for whom funds were being deposited into the trust account in violation of Rule 1.15-3(b)(1); and
- h. By failing to properly maintain entrusted funds in trust and by disbursing funds from TA 1466 in excess of the funds in TA 1466, Defendant failed to properly maintain and disburse entrusted funds in violation of Rule 1.15-2(a) and (n).

A hearing was held on August 15, 2024 for the dispositional phase of this case, to determine what discipline, if any, should be imposed in this case.

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

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 17 of the Order Entering Findings of Fact and Conclusions of Law filed August 1, 2024 and recited above are reincorporated as if set forth herein.

¹ Previously codified as Rule 1.15-2(g).

2. 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.

3. The trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct are designed to assist with 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 herein caused significant harm to clients for whom he should have been maintaining funds in trust, including by failing to properly and accurately identify and maintain funds in trust for clients and by making improper disbursements from his trust account as identified above and as follows:

- a. Defendant stated that even though he did not maintain a ledger listing trust account clients with specific amounts, his accounting system allowed a quick calculation of the funds designated as trust payments per client. However, his system did not show in any way whether and/or when any funds per client were actually deposited into Defendant's trust account.
- b. Defendant provided two trust account reconciliations as of September 2022, one dated June 2023 and one dated June 2024. Each contained a list of clients and balances purportedly in Defendant's trust account. The lists differed significantly. The June 2023 reconciliation listed only 10 clients with the balances that should have been maintained in trust for the clients as of September 30, 2022 totaling \$1,585.00 (\$1,692.00 if only the positive client balances were included). The June 2024 reconciliation listed significantly more than 10 clients with balances that should have been maintained in trust for the clients as of September 30, 2022 totaling \$18,163.92. Additionally, different balances as of September 30, 2022 were listed for the same clients on the different reconciliations; for example, for the client with client number 11971, the June 2023 reconciliation showed the client should have had \$250.00 in the trust account as of September 30, 2022, but the June 2024 reconciliation showed a zero balance for the client; for the client with client number 10318, the June 2023 reconciliation showed the client should have had a balance of \$218.00 as of September 30, 2022 but the June 2024 reconciliation listed the client's balance as \$167.00.
- c. The variances between these two reconciliations for September 2022 highlight the unreliability of Defendant's systems and the need for Defendant to utilize the methods set out in Rule 1.15-2 and Rule 1.15-3 of the Rules of Professional Conduct.
- d. The June 2023 reconciliation listed a negative -\$107.00 balance for a client, indicating that, according to Defendant's records, Defendant disbursed more funds from the trust account for the client than he had in the trust account for the client, thereby misusing other client funds.
- e. The June 2024 reconciliation stated he should have had \$18,163.92 in his trust account as of September 30, 2022. According to his trust account bank statement,

however, he only had \$5,607.78 in his trust account as of September 30, 2022. Defendant failed to maintain in his trust account the funds he identified he should have had in his trust account as of September 30, 2022.

- f. The trust account check for which there were insufficient funds in November 2022 was trust account check number 4449 written on November 3, 2022 for client C.P. to the Wilson County Clerk of Court in the amount of \$266.00. Defendant's PayPal statements indicate only \$78.00 was collected from client C.P. Although Defendant's ledger for this client shows a collection of \$360.00 from this client on November 2, 2022, the funds were not collected via PayPal and there was no deposit into the trust account on November 2 or November 3, 2022. There is no evidence of any funds having been deposited into the trust account for client C.P. prior to the issuance or presentation of this check for payment.
- g. The June 2024 reconciliation indicates that there is \$12,556.14 that should have been deposited into the trust account in January through April 2022 that had not actually been deposited into the trust account as of September 30, 2022.

4. Defendant's client ledgers did not identify dates and amounts of funds actually deposited into the trust account per client or dates and amounts of actual disbursements per client, nor did they have a running balance per client of the client's funds in the trust account, contrary to the requirements of Rule 1.15-3(b)(5). Defendant's failure to maintain client ledgers with this required content caused significant harm and potential significant harm to his clients in that it created the circumstances under which Defendant could and did issue checks from his trust account without having deposited funds for the client into his trust account, either at all or in sufficient amounts, and with no means of knowing from his ledgers whether there were funds for the client in his trust account.

5. Defendant's transfer of funds from his PayPal account to the trust account in a manner that failed to identify the client(s) whose funds were being deposited into the trust account caused significant harm and potential significant harm to his clients in that it impaired the ability of Defendant to accurately identify whose funds were in his trust account and whether all funds that should have been transferred to the trust account had actually been transferred to the trust account.

6. Defendant's failure to promptly transfer entrusted funds from his PayPal account to his trust account caused the significant harm and potential significant harm that Defendant would issue checks from the trust account for clients whose funds were still in the PayPal account and not yet in the trust account, thereby misusing or potentially misusing other clients' funds in the trust account.

7. Defendant's deposit of entrusted funds into his operating account instead of his trust account caused the potential significant harm that the funds might be misused, that Defendant might expend the funds on personal matters or an involuntary collection or garnishment might impact the funds prior to the funds being transferred to the trust account.

8. Defendant received a reprimand from the DHC in case 18 DHC 35 by order filed January 29, 2019 for conduct including failing to produce his client for a deposition, failing to comply with court orders regarding discovery responses and depositions, and failing to communicate with his client.

9. Defendant failed to comply with discovery obligations in this case and did not respond to Plaintiff's First Set of Interrogatories and First Request for Production of Documents until ordered by the DHC to do so. The answers and responses he provided subsequent to the DHC's order were nonresponsive and incomplete.

10. Although acknowledging that his trust accounting practices did not comply with those required by the Rules of Professional Conduct, Defendant refused to acknowledge the inadequacy of his trust accounting practices or the harm and potential harm resulting from his deficient trust accounting practices.

11. Defendant claimed in his Answer that he expected to be in compliance with trust accounting requirements in the Rules of Professional Conduct in two months. His Answer was filed in February 2024. As of the date of the August 15, 2024 hearing, Defendant had failed to show he had come into compliance with the trust accounting requirements of Rule 1.15-2 and Rule 1.15-3. Defendant demonstrated, however, that he had retained a company to assist him in bringing his procedures into compliance and that work was in progress to do so.

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

- a. Factor (D), Elevation of Defendant's own interest above that of the client;
- b. Factor (E), Negative impact of Defendant's actions on client's or public's perception of the profession;
- c. Factor (H), Effect of Defendant's conduct on third parties; and

- d. Factor (J), Multiple instances of failure to participate in the legal profession's self-regulation process.

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, and concluded no factors in this section of the rule are present 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), Prior disciplinary offenses;
- b. Factor (B), Remoteness of prior offenses; and
- c. Factor (F), A pattern of misconduct;

6. The Hearing Panel considered all of the disciplinary options available to it and determined that a suspension is appropriate in this case, in light of the significant harm and potential harm caused by Defendant's conduct to his clients. A suspension with conditions for a stay of the suspension and/or for reinstatement designed to achieve and maintain full compliance with the trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct is necessary to protect clients and the public.

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

- a. A suspension with conditions designed to ensure measures are in place to achieve and maintain full compliance with the trust account record-keeping, review, and reconciliation requirements of the Rules of Professional Conduct prior to Defendant continuing to practice law is necessary to protect clients and the public;
- b. Supervision under a stayed suspension is necessary to ensure all required corrections are made and sustained; and
- c. 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, the additional Findings of Fact, and the Conclusions Regarding Discipline, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Richard E. Batts, is hereby suspended from the practice of law for one year. 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 fees and costs within 30 days of service upon him of the statement of fees and costs by the Secretary.

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

- a. Defendant paid the administrative fees and costs within 30 days of service upon him of the statement of fees and costs.
- b. By September 14, 2024 (30 days from the date of the hearing), Defendant shall make arrangements in writing for a Trust Account Monitor approved by the North Carolina State Bar Office of Counsel of the North Carolina State Bar and shall provide such written agreement to the Office of Counsel. Defendant will be responsible for any associated costs. The Trust Account Monitor shall agree in writing to do the following:
 - (1) Review all transactions in any and all trust accounts utilized by Defendant each month, no later than the 15th day of the next subsequent month (e.g. review the transactions for January no later than February 15), with such review to include, per trust account, review of the bank statements, canceled checks, deposit slips, deposited items, PayPal transfers, any other electronic transfers, any bank instrument by which funds were deposited into or disbursed from the trust account, the general ledger for the trust account, and the subsidiary trust account ledgers including those required by Rule 1.15-3(b)(5) for all clients for whom funds were received, disbursed, or maintained in the trust account in that month;
 - (2) Verify and certify for the month that all bank transactions (including all deposits, disbursements, bank charges, etc.) are recorded on a general ledger for the trust account and on an appropriate subsidiary trust account ledger and all entries on all general ledgers and subsidiary trust account ledgers accurately reflect the corresponding bank transaction;
 - (3) Verify and certify that a client identifier was used, and the same client identifier was consistently used per client, across all applicable records that month, including on the client's subsidiary trust account ledger, on the general ledger, on any trust account check or other instrument disbursing funds from the trust

account, on any deposit slip depositing funds for the client into the trust account, and on any PayPal transfer or other electronic transfer;

- (4) Verify and certify that no trust account checks were given to any recipient and/or disbursements otherwise made for any client from the trust account prior to sufficient funds for that client having been deposited into the trust account and irrevocably credited to the trust account and made available for disbursement for that client;
 - (5) Verify and certify that the client from whose funds in the trust account a disbursement was made is identified for all disbursements from the trust account, and that no disbursements were made from the trust account in excess of the funds in the trust account for that client;
 - (6) Verify and certify that all entrusted funds received for clients, including settlement funds and funds for payment of court costs or fines, were deposited into the trust account; and
 - (7) Verify and certify that no reimbursements for advanced costs to Defendant were made from the trust account without documentation in the respective client file showing Defendant had actually previously paid that specific amount or more for the client from his business or personal funds.
- c. Defendant shall provide each month, no later than the 30th day of the next subsequent month or the last day of the subsequent month, whichever is earlier (e.g. certification for January due no later than February 28), a certification from the Trust Account Monitor verifying and certifying the following:
- (1) That the Trust Account Monitor reviewed all transactions in any and all trust accounts utilized by Defendant each month, no later than the 15th day of the next subsequent month (e.g. review the transactions for January no later than February 15), with such review to include, per trust account, review of the bank statements, canceled checks, deposit slips, deposited items, PayPal transfers, any other electronic transfers, any bank instrument by which funds were deposited into or disbursed from the trust account, the general ledger for the trust account, and the subsidiary trust account ledgers including those required by Rule 1.15-3(b)(5) for all clients for whom funds were received, disbursed, or maintained in the trust account in that month;
 - (2) That all bank transactions for all trust accounts (including all deposits, disbursements, bank charges, etc.) are recorded on a general ledger for the respective trust account and on an appropriate subsidiary trust account ledger and all entries on all general ledgers and subsidiary trust account ledgers accurately reflect the corresponding bank transaction;

- (3) That a client identifier was used, and the same client identifier was consistently used per client, across all applicable records that month, including on the client's subsidiary trust account ledger, on the general ledger, on any trust account check or other instrument disbursing funds from the trust account, on any deposit slip depositing funds for the client into the trust account, and on any PayPal transfer or other electronic transfer;
 - (4) That no trust account checks were given to any recipient and/or disbursements otherwise made for any client from the trust account prior to sufficient funds for that client having been deposited into the trust account and irrevocably credited to the trust account and made available for disbursement for that client;
 - (5) That the client from whose funds in the trust account a disbursement was made is identified for all disbursements from the trust account, and that no disbursements were made from the trust account in excess of the funds in the trust account for that client;
 - (6) That all entrusted funds received for clients, including settlement funds and funds for payment of court costs or fines, were deposited into the trust account; and
 - (7) That no reimbursements for advanced costs to Defendant were made from the trust account without documentation in the respective client file showing Defendant had actually previously paid that specific amount or more for the client from his business or personal funds.
- d. Within ten days of any report by the Trust Account Monitor that he or she cannot make any of the above-required certifications due to inaccuracies, deficiencies, or other reasons, Defendant shall correct any inaccuracies, deficiencies, or other issues identified by the Trust Account Monitor resulting in the Trust Account Monitor's inability to make a required certification and shall provide documentation to the Office of Counsel of the correction(s) and a certification from the Trust Account Monitor verifying that all necessary corrections have been made and making the certification he or she was previously unable to make.
- e. By December 31, 2024, Defendant shall provide to the Office of Counsel a written report of the three-way reconciliation of all attorney trust accounts to which he has access, using the State Bar's Reconciliation Report form from the State Bar's website and the reconciliation methods described in the State Bar Lawyer's Trust Account Handbook on the State Bar's website for the three-way reconciliation normally required quarterly under Rule 1.15-3(d)(2), for the months of August, September, and October 2024. Defendant shall complete the entire form for each trust account and include with each such report all documents identified on the form for when the entire form is completed, along with the client subsidiary trust account ledger for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month. The client subsidiary trust account ledgers

shall contain an accurate and appropriate entry for each deposit and disbursement of funds for the client in the trust account with an accurate running balance, and shall not contain any other entries (e.g. billing/invoicing record-keeping must be done separately).

- f. With respect to reconciliation reports beginning with the month of November 2024 through the end of the stayed suspension, Defendant shall provide monthly to the State Bar's Office of Counsel a written report of the three-way reconciliation of all attorney trust accounts to which he has access, using the State Bar's Reconciliation Report form from the State Bar's website and the reconciliation methods described in the State Bar Lawyer's Trust Account Handbook on the State Bar's website for the three-way reconciliation normally required quarterly under Rule 1.15-3(d)(2). Defendant shall complete the entire form for each trust account and include with each such report all documents identified on the form for when the entire form is completed, along with the client subsidiary trust account ledger for every client for whom funds were deposited, maintained, or disbursed at any point in time during that month. The client subsidiary trust account ledgers shall contain an accurate and appropriate entry for each deposit and disbursement of funds for the client in the trust account with an accurate running balance, and shall not contain any other entries (e.g. billing/invoicing record-keeping must be done separately). This documentation is due 30th day of the next subsequent month or the last day of the subsequent month, whichever is earlier (e.g. certification for January due no later than February 28). The first report due under this section is the reconciliation for November 2024, due to the Office of Counsel no later than December 30, 2024.
- g. Defendant shall not disburse from the trust account any funds for a client by check or other means until he has a good-faith belief that sufficient funds for the client have previously been transferred or otherwise deposited into the trust account for the client and are available for disbursement for the client.
- h. By September 14, 2024 (30 days from the date of the hearing), Defendant shall complete three hours of continuing legal education (CLE) on the topic of trust account management. These CLE hours can be completed online.
- i. If a monthly three-way reconciliation report, a Trust Account Monitor review, or other review reveals any deviation from Defendant's obligations under Rule 1.15-2 or Rule 1.15-3, Defendant shall take remedial action and shall, within ten days of the date of such report, review, or audit, provide documentation to the Office of Counsel showing the remedial action. If State Bar review revealed the deviation, Defendant shall take remedial action within ten days of the date of the correspondence notifying him of the issue.
- j. If during the stay of the suspension any Trust Account Monitor previously approved by the State Bar to provide the services set out in this Order is no longer available to serve, Defendant shall make arrangements for a replacement and shall submit the

name and information about the proposed replacement to the Office of Counsel for approval within 15 days of such unavailability and need for replacement.

- k. Defendant shall provide to the Office of Counsel any trust account related documentation or records requested by the Office of Counsel in this matter within ten days of the request.
- l. Defendant shall keep the State Bar's Membership Department advised of his current business address, which address must be a street address, not a post office box or drawer.
- m. Defendant shall notify the Membership Department of the State Bar of any change of address within 10 days of such change.
- n. Defendant shall timely pay all membership dues and CLE fees and shall timely comply with all membership and CLE obligations.
- o. Defendant shall timely and fully 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.
- p. Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order.
- q. Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or any state or local government.

4. If during the period of the stayed suspension Defendant closes his trust account and no longer maintains an attorney trust account and no longer handles entrusted or fiduciary funds, Defendant shall submit to the Office of Counsel an affidavit that he has closed his trust account and no longer maintains an attorney trust account and no longer handles entrusted or fiduciary funds along with the bank statement showing the closing of the trust account. Thereafter, after submitting this affidavit and bank statement to the Office of Counsel, on a monthly basis Defendant shall submit to the Office of Counsel an affidavit certifying that he did not handle any entrusted or fiduciary funds in that month and is not maintaining an attorney trust account. 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). Such affidavit shall be in lieu of the obligations to have a Trust Account Monitor, to submit reports from the Trust Account Monitor, and to submit reconciliation reports and documents monthly to the Office of Counsel.

5. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end one year from the effective date of the Order provided there are no motions or proceedings pending alleging lack of compliance with the

conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B.0118(a), the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. As provided in 27 N.C. Admin. Code 1B.0118(b), if a motion or 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 one-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 proceeding.

6. If during the stay of the suspension Defendant fails to comply with any one or more of the conditions stated above, then the stay of the suspension of Defendant's law license may be lifted as provided in 27 N.C. Admin. Code 1B.0118. If the stay is lifted and the suspension activated, the activated suspension shall be for one year.

6. If Defendant's suspension is activated and Defendant fails to fully comply with 27 N.C. Admin. Code 1B.0128, Defendant shall reimburse the State Bar for any and all expenses incurred by the State Bar in winding down Defendant's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses and compensation paid to any appointed trustee and/or the trustee's assistant for time and travel associated with the trusteeship. The State Bar shall send an invoice of wind-down expenses to Defendant at Defendant's last known address of record with the State Bar. Defendant shall not be eligible for any stay of suspension or reinstatement from suspension until he has reimbursed the State Bar for any and all wind-down expenses incurred.

7. 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 26 day of August, 2024.



Jaye P. Meyer, Chair
Disciplinary Hearing Panel