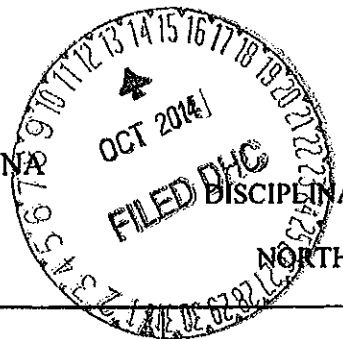


STATE OF NORTH CAROLINA
WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

SCOTT B. SPRANSY, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF DISCIPLINE

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, R. Lee Farmer, and Karen B. Ray pursuant to 27 N.C. Admin. Code 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten. Defendant, Scott B. Spransy, has not participated in this matter and no counsel of record has appeared on his behalf.

On Plaintiff's motion, judgment by default was entered against Defendant. Based upon the pleadings, other filings, and admissions pursuant to 27 N.C. Admin. Code 1B § .0114(f) and Rule 8(d) of the North Carolina Rules of Civil Procedure, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "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 promulgated thereunder.

2. Defendant, Scott B. Spransy ("Defendant" or "Spransy"), was admitted to the North Carolina State Bar on 10 September 1993 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant herein, Spransy actively engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. Defendant was properly served with process in this action.
5. From at least February 2009 to January 2014, Spransy maintained an attorney trust account at Yadkin Bank bearing account number ending in 3758 (hereinafter "trust account") into which Spransy deposited entrusted client funds.
6. Spransy represented Mary and Anna Alexander ("the Alexanders") in a personal injury case resulting from a September 2007 car accident.
7. Spransy executed a fee agreement with the Alexanders entitling him, at most, to 33.3% of any recovered sum upon resolving the Alexanders' personal injury case.
8. In or around September 2009, Spransy settled the Alexanders' personal injury case.
9. During September and October 2009, Spransy received a total of \$100,144.00 in settlement proceeds for the benefit of the Alexanders.
10. Spransy deposited the Alexanders' settlement proceeds into his trust account.
11. The Alexanders instructed Spransy to disburse the settlement proceeds to pay for the Alexanders' outstanding medical bills and disburse any remaining portion (less Spransy's fee per the fee agreement) to the Alexanders.
12. Spransy never made any disbursement from his trust account to the Alexanders or to a third party for the Alexanders' benefit.
13. At the time Spransy deposited the Alexanders' settlement proceeds into his trust account, the balance of Spransy's trust account was \$1,285.11. Aside from two other clients whose funds were deposited into and disbursed from the trust account in their entirety, the only funds in Spransy's trust account between September 2009 and January 2014 were the Alexanders' settlement proceeds and this beginning balance.
14. Between October 2009 and September 2010, Spransy disbursed to himself or to a third party for his personal benefit a total of \$55,879.56 from his trust account via 24 transactions, listed as follows:

(a) Disbursements to Spransy's personal checking account:

i.	10/26/2009	\$1,000.00
ii.	10/30/2009	\$1,000.00
iii.	11/12/2009	\$1,000.00
iv.	12/02/2009	\$1,500.00
v.	12/14/2009	\$5,000.00
vi.	12/30/2009	\$7,000.00
vii.	01/05/2010	\$1,000.00

viii.	01/12/2010	\$3,000.00
ix.	03/01/2010	\$10,000.00
x.	04/12/2010	\$1,500.00
xi.	04/19/2010	\$1,300.00
xii.	05/13/2010	\$1,500.00
xiii.	05/28/2010	\$1,700.00
xiv.	07/09/2010	\$2,000.00
xv.	07/16/2010	\$1,500.00
xvi.	07/23/2010	\$1,000.00
xvii.	08/02/2010	\$1,500.00
xviii.	08/13/2010	\$1,000.00
xix.	08/16/2010	\$1,500.00
xx.	09/01/2010	\$1,000.00
xxi.	09/09/2010	\$750.00

(b) Disbursements to Spransy's law practice operating account:

i.	10/13/2009	\$6,500.00
ii.	04/01/2010	\$1,500.00

(c) Disbursements to a third party for Spransy's benefit:

i.	04/01/2010	\$1,129.56 to Spransy's homeowners association
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15. Spransy did not indicate the client balance from which he purported to make the above listed disbursements to himself or to a third party for his personal benefit.

16. Per the fee agreement with the Alexanders, Spransy was entitled to, at most, 33.3% of the \$100,144.00 settlement, or \$33,347.95.

17. After disbursing his fee from his trust account, Spransy was required to maintain a balance in his trust account of at least \$66,796.05 for the Alexanders.

18. After 1 March 2010, Spransy's trust account balance fell below the amount he was required to maintain for the Alexanders.

19. Spransy's trust account balance is presently \$45,549.54.

20. Of the \$55,879.56 disbursed to Spransy or to a third party for Spransy's personal benefit from his trust account as set out in paragraph 14 above, Spransy was not entitled to at least \$21,246.51 of the funds disbursed and was not authorized by the beneficial owner(s) of the funds to disburse such funds to himself or to a third party for his personal benefit.

21. Spransy misappropriated at least \$21,246.51 from his trust account.

22. During the years 2010 through 2013, the Alexanders made numerous requests of Spransy for an update on the status of their case, including the disbursement of the settlement proceeds.

23. Spransy did not timely respond to the Alexanders' inquiries, and Spransy sometimes failed to respond to the Alexanders' inquiries entirely.

24. Spransy never paid all of the Alexanders' medical bills resulting from the car accident as instructed by his clients.

25. Spransy never disbursed to the Alexanders their portion of the settlement proceeds.

26. During the years 2010 through 2013, Spransy never provided the Alexanders with annual written accountings of their settlement proceeds while the funds remained deposited in Spransy's trust account.

27. Between February 2009 and January 2014, Spransy made the following cash withdrawals from his trust account:

- a. 04/12/2010 \$171.00
- b. 02/10/2012 \$1,000.00

28. Between February 2009 and January 2014, Spransy failed to perform all quarterly or monthly reconciliations of his trust account as required by the Rules of Professional Conduct.

29. Between February 2009 and January 2014, Spransy failed to maintain proper client ledgers which accurately tracked the deposit and withdrawal of all clients' funds in his trust account.

30. Between February 2009 and January 2014, Spransy did not always identify the client(s) associated with his trust account disbursements.

As previously found in the Default Judgment and now recited herein, based upon the foregoing Findings of Fact, the panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Scott B. Spransy, and the subject matter of this proceeding.
 - (a) Spransy's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline. By making disbursements totaling at least \$21,246.51 from his trust account to himself, his law practice, or to a third party for his personal benefit without authorization from the legal or beneficial owners of the funds, Spransy failed to preserve entrusted funds provided to him in

violation of Rules 1.15-2(a) and (b), misappropriated and used entrusted funds for his personal benefit or the benefit of a person other than the legal or beneficial owner of the funds in violation of Rule 1.15-2(j), committed criminal acts that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

- (b) By failing to disburse the Alexanders' funds for over four years after receiving the settlement proceeds and by failing to pay the Alexanders' medical bills as instructed, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to promptly pay or deliver entrusted property to his clients or to third persons as directed by his clients to which his clients were entitled in violation of Rule 1.15-2(m);
- (c) By failing to promptly respond to the Alexanders' inquiries, if at all, about the status of their case, Spransy failed to keep his clients reasonably informed about the status of their matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);
- (d) By failing to render to his clients annual written accountings of the receipts and disbursements of their entrusted funds deposited in his trust account for more than one year, Spransy violated Rule 1.15-3(e);
- (e) By withdrawing cash from his trust account, Spransy violated Rule 1.15-2(i); and
- (f) By failing to maintain proper client ledgers, by failing to perform monthly and quarterly reconciliations of his trust account, and by failing to identify the clients associated with disbursements from his trust account, Spransy failed to properly handle and disburse entrusted funds in violation of Rule 1.15-2(a) and Rule 1.15-3(b)(2), and failed to adequately monitor and maintain his attorney trust account in violation of Rule 1.15-3(b)(5) and Rules 1.15-3(d)(1) and (2).

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing panel finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings in paragraphs 1 through 30 above are reincorporated as if fully set forth herein.
2. Spransy's conduct – to wit: severe neglect of clients, failure to adequately communicate with his clients, failure to resolve the matters for which he was retained,

failure to deliver funds to his clients to which they were entitled, and misappropriation of entrusted client funds – impaired his clients’ ability to achieve the goals of the representation, deprived his clients of the funds entrusted to Spransy’s care to which they were entitled, and unnecessarily delayed resolution of his clients’ pending cases.

3. Spransy’s known and willful misapplication and conversion to his personal use of entrusted client funds constitutes embezzlement pursuant to N.C. Gen. Stat. § 14-90, a felony criminal offense.

4. Clients are entitled to attorneys they can trust. Spransy, by engaging in neglect and dishonest conduct, has shown himself to be untrustworthy.

5. Spransy’s repeated theft of entrusted client funds demonstrates Spransy’s dishonest and selfish motive, Spransy’s elevation of his own interests above that of his clients, Spransy’s pattern of misconduct, Spransy’s intent to cause the resulting harm or potential harm, and shows Spransy’s intent to commit acts where the harm or potential harm was foreseeable.

6. The hearing panel has carefully considered all of the different forms of discipline available to it in considering the appropriate discipline to impose in this case.

Based upon the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact Regarding Discipline, and upon consideration of the factors set forth in 27 N.C. Admin. Code 1B § .0114(w), the hearing panel hereby enters the following additional

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and finds the following factors warrant disbarment or suspension of Defendant’s license:

- a. Defendant’s intent to cause the resulting harm or potential harm;
- b. Defendant’s intent to commit acts where the harm or potential harm was foreseeable;
- c. Circumstances reflecting Defendant’s lack of honesty, trustworthiness, or integrity;
- d. Elevation of the defendant’s own interest above that of the client;
- e. Impairment of the client’s ability to achieve the goals of the representation; and
- f. Acts of dishonesty, misrepresentation, deceit, or fabrication.

2. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and finds Defendant has engaged in the following conduct that compels consideration of and warrants disbarment of Defendant's license:

- a. Acts of dishonesty, misrepresentation, deceit, or fabrication;
- b. Misappropriation or conversion of assets entrusted by clients to Defendant to which Defendant was not entitled; and
- c. Commission of a felony.

3. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds evidence of the following factors:

- a. Defendant's dishonest or selfish motive;
- b. Defendant's pattern of misconduct; and
- c. Defendant's multiple offenses.

4. Spransy's neglect, failure to communicate, failure to resolve the matters for which he was retained, and misappropriation of entrusted client funds caused significant harm to his clients:

5. Spransy's neglect of his clients' matters has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows his disregard for his duties as an attorney. Spransy's commission of criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer also caused significant potential harm to the profession in that criminal conduct by attorneys tends to bring the legal profession into disrepute. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.

6. The hearing panel has considered all other forms of discipline available and concludes that any sanction less than disbarment would fail to acknowledge the seriousness of the offenses committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar. The hearing panel further concludes that any sanction less than disbarment would not adequately protect clients, the public, the administration of justice, and the profession.

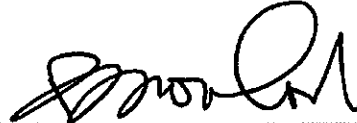
7. Due to the nature and extent of Defendant's conduct, the significant actual harm and potential harm caused by Defendant's conduct, and in the interest of protecting clients, the public, the administration of justice and the profession, this panel concludes that disbarment is the only discipline that will adequately protect clients, the public, the administration of justice, and the profession from future transgressions by Defendant.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, the hearing panel enters the following

ORDER OF DISCIPLINE

1. Defendant, Scott B. Spransy, is hereby DISBARRED from the practice of law.
2. Defendant shall surrender his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.
3. Defendant shall pay the costs and administrative fees of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay these costs and fees within 30 days of service upon him of the statement of costs and fees by the Secretary.
4. Defendant shall comply with all provisions of 27 N.C. Admin. Code 1B § .0124 of the North Carolina State Bar Discipline and Disability Rules.

Signed by the Chair with the consent of the other hearing panel members, this the 13 day of October, 2014.



Fred M. Morelock, Chair
Disciplinary Hearing Panel