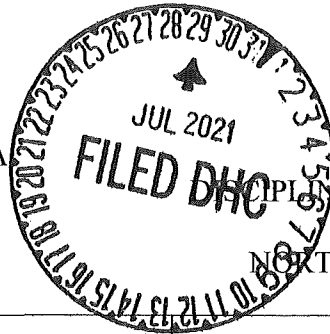


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
21 DHC 19

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ANGELA S. BEEKER, Attorney,

Defendant

CONSENT
ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Margit Monaco Hicks, Chair, and members Maya Madura Engle and Heath R. Jenkins. Plaintiff was represented by Jennifer A. Porter. Defendant Angela S. Beeker was represented by Deanna S. Brocker.

The parties stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order. The parties consent to the discipline imposed by this Order. By consenting to this Order, Defendant knowingly, freely, and voluntarily waives her right to appeal this Consent Order or to challenge in any way the sufficiency of the findings.

Based upon the stipulated facts and upon the consent of the parties, the Hearing Panel hereby finds 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, Angela S. Beeker ("Beeker" or "Defendant"), was admitted to the North Carolina State Bar on 23 August 1991 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 some or all of the periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Hendersonville, Henderson County, North Carolina.

4. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

5. Defendant maintained at least three attorney trust accounts: a First Citizens Bank trust account ending in no. 9956 ("FCB x9956"), a First Citizens Bank trust account ending in no. 9964 ("FCB x9964"), and a Carolina First Bank (now TD Bank) trust account ending in no. 9873 ("CFB x9873").

Avery Riser Development

6. Defendant was retained to serve as closing attorney for client Avery Riser Development, LLC ("ARD") for a real estate closing concerning property located at 402 S. King Street, Hendersonville, North Carolina, on or about 25 September 2007.

7. From 20 July 2007 to 25 September 2007, Defendant deposited funds for client ARD's real estate closing in CFB x9873 totaling \$311,065.31.

8. By 9 November 2007, Defendant had disbursed \$304,197.31 on behalf of ARD, leaving a balance in CFB x9873 for ARD of \$6,868.00.

9. The \$6,868.00 was intended to be disbursed to Carolina First Bank for "Loan Closing" fees.

10. On or about 25 September 2007, Defendant issued trust account check #1116 to Carolina First Bank for \$6,868.00 but the check was not negotiated. Defendant took no further action to disburse these funds.

11. From 9 November 2007 through at least 13 July 2016, Defendant held \$6,868.00 for client ARD in CFB x9873.

12. Defendant failed to take the actions necessary to disburse the \$6,868.00 to Carolina First Bank for client ARD.

13. Defendant did not send client ARD annual accountings of the funds she held in CFB x9873 for ARD.

Individual Client A

14. Defendant was retained to serve as closing attorney for Individual Client A for a real estate closing concerning property located at Third Avenue East, Hendersonville, North Carolina, on or about 17 August 2009.

15. On 18 August 2009, Defendant deposited funds for Individual Client A's real estate closing in CFB x9873 totaling \$1,638.69.

16. On 18 August 2009, Defendant issued trust account check #1385 to Henderson County Tax Collector for \$227.55 for "Past Due County Taxes" for Individual Client A.

17. On 21 August 2009, check #1385 cleared CFB x9873 for \$227.35, \$0.20 short of the original amount for which the check had been written.

18. By 1 March 2010, Defendant had disbursed \$1,638.49 on behalf of Individual Client A, leaving a balance in CFB x9873 for Individual Client A of \$0.20.

19. The \$0.20 was intended to be disbursed to Henderson County Tax Collector for "Past Due County Taxes."

20. From 1 March 2010 through at least 13 July 2016, Defendant held \$0.20 for Individual Client A in CFB x9873.

21. Defendant failed to take the actions necessary to disburse the remaining \$0.20 to Henderson County Tax Collector for Individual Client A.

22. Defendant did not send Individual Client A annual accountings of the funds she held in CFB x9873 for Individual Client A.

Phoenix Housing Group, Inc.

23. Defendant was retained by client Phoenix Housing Group, Inc., ("Phoenix") on or about 2 September 2008.

24. On 4 September 2008, Defendant deposited funds for client Phoenix in FCB x9964 in the amount of \$420.00.

25. From 4 September 2008 through at least October 2017, Defendant held \$420.00 for client Phoenix in FCB x9964.

26. Defendant failed to take the actions necessary to disburse the \$420.00 for client Phoenix.

27. Defendant did not send client Phoenix annual accountings of the funds she held in FCB x9964 for Phoenix.

Individual Client B

28. Defendant was retained by Individual Client B for various real estate transactions beginning in about 2007.

29. On 20 July 2007, Defendant deposited funds for Individual Client B's real estate closings in CFB x9873 in the amount of \$186,178.53 ("the July 2007 funds").

30. By 10 August 2007, Defendant had disbursed a total of \$185,614.10 of the July 2007 funds on behalf of Individual Client B, leaving a balance from those funds in CFB x9873 of \$564.43.

31. From 10 August 2007 through at least 13 July 2016, Defendant held \$564.43 for Individual Client B in CFB x9873 from the July 2007 funds.

32. Defendant failed to take the actions necessary to disburse the remaining \$564.43 of the July 2007 funds.

33. In 2008, Defendant deposited funds for Individual Client B in FCB x9956 totaling \$766,084.97 (“the 2008 funds”).

34. By 12 June 2009, Defendant had disbursed \$764,583.36 of the 2008 funds, leaving a balance in FCB x9956 for Individual Client B of \$1,501.61.

35. According to Defendant, the \$1,501.61 was intended to be “left on deposit, held for [Individual Client B’s] use generally in real estate matters.”

36. From 12 June 2009 through at least July 2018, Defendant held \$1,501.61 for Individual Client B in FCB x9956.

37. Defendant failed to refund Individual Client B’s \$1,501.61 to Individual Client B when she closed her real estate practice in September 2010 and did not otherwise take the actions necessary to disburse the remaining \$1,501.61 for Individual Client B.

38. On 10 June 2009 and 11 June 2009, Defendant deposited funds for Individual Client B in CFB x9873 totaling \$1,208,980.73 (“the June 2009 funds”).

39. By 14 July 2009, Defendant had disbursed \$1,207,161.52 of the June 2009 funds, leaving a balance from those funds in CFB x9873 of \$1,819.21.

40. Of the \$1,819.21 remaining of the June 2009 funds, \$38.00 was intended to be disbursed to the North Carolina Secretary of State for “filing of UCC cancellation” and \$1,781.21 was intended to be held in the trust account for “utility escrow.”

41. From 14 June 2009 through at least 13 July 2016, Defendant held \$1,819.21 for Individual Client B in CFB x9873 from the June 2009 funds.

42. Defendant failed to take the actions necessary to disburse the remaining \$1,819.21 for Individual Client B.

43. On 7 August 2009, Defendant deposited funds in CFB x9873 for Individual Client B for a real estate closing for Individual Client B's company in the amount of \$1,600,000.00 ("the August 2009 funds").

44. By 3 May 2010, Defendant had disbursed \$1,599,965.00 of the August 2009 funds, leaving a balance from those funds in CFB x9873 of \$35.00.

45. The \$35.00 was intended to be disbursed to the Buncombe County Register of Deeds.

46. On or about 7 August 2009, Defendant issued trust account check # 1368 to the Buncombe County Register of Deeds for \$35.00 but it was not negotiated. Defendant took no further action to disburse these funds.

47. From 3 May 2010 through at least 13 July 2016, Defendant held \$35.00 for Individual Client B in CFB x9873 from the August 2009 funds.

48. Defendant failed to take the actions necessary to disburse the remaining \$35.00 for Individual Client B.

49. Defendant did not send Individual Client B annual accountings with respect to any of the amounts maintained in CFB x9873 and FCB x9956 identified above.

Trust account management

50. Defendant did not reconcile trust accounts CFB x9873, FCB x9956, and FCB x9964 after December 2009.

51. After December 2009, Defendant did not conduct the monthly or quarterly reconciliations or prepare the corresponding reconciliation reports required by Rule 1.15-3(d) for CFB x9873, FCB x9956, and FCB x9964.

52. After 6 January 2011, Defendant did not deposit or disburse any funds from CFB x9873.

53. At some point after 13 July 2016, TD Bank escheated the funds in CFB x9873, which at that time contained entrusted funds belonging to clients ARD, Individual Client A, and Individual Client B.

54. After 26 July 2010, Defendant did not deposit or disburse any funds from FCB x9964.

55. By October 2017, First Citizens Bank escheated the funds in FCB x9964, which at that time contained entrusted funds belonging to client Phoenix.

56. After 28 August 2012, Defendant did not deposit or disburse any funds from FCB x9956.

57. By July 2018, First Citizens Bank escheated the funds in FCB x9956, which at that time contained entrusted funds belonging to Individual Client B.

Based on the foregoing Findings of Fact and upon the consent of the parties, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Angela S. Beeker, 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 take the actions necessary to promptly disburse funds held in trust for clients and prevent her clients' funds from being escheated, Defendant failed to properly hold, maintain, and disburse entrusted funds in violation of Rule 1.15-2(a) and (n)¹ and failed to diligently complete client matters in violation of Rule 1.3;
- (b) By failing to reconcile trust accounts CFB x9873, FCB x9956, and FCB x9964 after December 2009, Defendant failed to conduct required monthly and quarterly trust account reconciliations and prepare required reconciliation reports in violation of Rule 1.15-3(d)(1) and (2); and
- (c) By failing to provide clients ARD, Individual Client A, Individual Client B, and Phoenix with written accountings of the receipts and disbursements of the client's entrusted funds annually for funds held in trust for the client for more than 12 months, Defendant failed to provide clients with required written accountings in violation of Rule 1.15-3(e).

Based on the foregoing Findings of Fact and Conclusions of Law, the stipulated facts, and upon the consent of the parties, 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 – 57 above are reincorporated as if set forth herein.

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

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 reconciliation requirements of the Rules of Professional Conduct are designed to assist with the proper protection, maintenance, and disbursement of entrusted funds. Had Defendant been reconciling CFB x9873, FCB x9956, and FCB x9964 monthly and quarterly, this would have reminded her and prompted her to complete the disbursements of her clients' funds.

4. The requirement to provide written accountings to clients annually for funds held in trust for more than 12 months ensures clients remain informed regarding the status of their entrusted funds. Had Defendant been providing annual accountings to ARD, Individual Client A, Individual Client B, and Phoenix, this would have informed the clients that Defendant continued to hold funds for them and might have prompted the clients to contact Defendant to get the funds disbursed. Additionally, the process of sending annual accountings would have reminded Defendant and prompted her to complete the disbursements of her clients' funds.

5. Defendant's failure to comply with the reconciliation and annual accounting requirements and failure to complete her clients' disbursements caused significant harm to her clients who were deprived of the benefit of their funds for several years and whose funds were then escheated.

6. Defendant's failure to promptly disburse funds for her clients caused significant harm to third parties who were intended recipients of certain of those funds and who were deprived of prompt payment.

7. In November 2018, Defendant submitted Unclaimed Property Claim Forms attempting to recover the funds escheated from CFB x9873 and FCB x9956. When this effort was unsuccessful, Defendant used her personal funds to either reimburse or to make disbursements for clients ARD, Phoenix, Individual Client A, and Individual Client B.

8. Defendant left private practice in 2018 and no longer maintains a trust account.

9. Defendant self-reported the escheatment of her clients' funds to the State Bar.

10. Defendant understands the funds in the trust accounts were her responsibility and deeply regrets creating the circumstances under which her clients' funds were escheated. Defendant is remorseful for having failed to properly and promptly disburse her clients' funds.

11. Defendant has no prior discipline.

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 factors 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 (B), Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- b. Factor (E), Negative impact of Defendant's actions on client's and public's perception of the profession; and
- c. Factor (H), Effect of Defendant's conduct on third parties.

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), Absence of prior discipline;
- b. Factor (C), Absence of dishonest or selfish motive;
- c. Factor (D), Timely make a good faith effort to make restitution and to rectify consequences of misconduct;
- d. Factor (F), A pattern of misconduct;
- e. Factor (G), Multiple offenses;
- f. Factor (J), Interim rehabilitation;
- g. Factor (K), Full and free disclosure to the Hearing Panel and a cooperative attitude toward the proceedings;
- h. Factor (P), Remorse; and

- i. Factor (S), Degree of experience in the practice of law.

6. The Hearing Panel considered all of the disciplinary options available to it and determined that a stayed suspension with conditions is appropriate in this case, in light of the significant harm caused by Defendant's conduct to her clients, third parties, and the profession. A stayed suspension with conditions designed to ensure 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 stayed suspension would not adequately protect the public for the following reasons:

- a. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed; and
- b. Entry of an order imposing less serious discipline 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, additional Findings of Fact and Conclusions of Law Regarding Discipline, and with the consent of the parties, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Angela S. Beeker, is hereby suspended from the practice of law for three years. 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 costs within 30 days of service upon her of the statement of costs by the Secretary.

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

- a. Defendant provides monthly to the State Bar's Office of Counsel a written report of the three-way reconciliation of all attorney trust accounts to which she 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, and including with each such report, for the account and period covered by the report, the following documents: (1) list of clients whose funds are held in the trust account that includes the amount of each

client's funds; (2) subsidiary ledger for any personal funds of Defendant in the account; (3) general ledger; (4) trust account bank statement; (5) canceled checks; (6) deposit slips; (7) deposited items; (8) list of outstanding checks; and (9) bank statement for any account into which funds are directly transferred from the trust account. This documentation is due 15 days after the end of each month (e.g. documentation for January due February 15th, etc.);

- b. Defendant provides to the Office of Counsel the quarterly review report and supporting documents required under Rule 1.15-3(i), using the Quarterly Review Report form from the State Bar's website, no later than 15 days after the end of the quarter, on the following dates as they occur during the stayed suspension: January 15, for the fourth quarter of the prior year; April 15, for the first quarter of the calendar year; July 15 for the second quarter of the calendar year; and October 15, for the third quarter of the calendar year;
- c. Defendant provides any documentation or records requested by the Office of Counsel within 10 days of the request;
- d. For each calendar year of the stayed suspension, Defendant completes one additional hour of CLE on the topic of trust account management. This CLE requirement is in addition to Defendant's other CLE requirements;
- e. Defendant keeps the State Bar's Membership Department advised of her current business address, which address must be a street address, not a post office box or drawer;
- f. Defendant notifies the State Bar of any change of address within 10 days of such change;
- g. Defendant responds 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;
- h. Defendant participates 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;
- i. Defendant does not violate the Rules of Professional Conduct; and
- j. Defendant does not violate any laws of the United States or any state or local government the violation of which would reflect adversely on Defendant's honesty, trustworthiness, or fitness as a lawyer in other respects.

4. Defendant certifies that she is not handling entrusted funds or maintaining an attorney trust account at the time she signed this consent order. For as long as Defendant is not handling

entrusted or fiduciary funds or maintaining an attorney trust account, on a monthly basis Defendant shall submit to the Office of Counsel an affidavit certifying that she 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 three-way reconciliation report and documentation required in paragraph 3a and the quarterly review report and documentation required in paragraph 3b above.

5. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end three years 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, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. 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 three-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.

7. If the stay of the suspension is lifted and the suspension is activated for any reason, upon application for another stay or for reinstatement, as permitted and applicable under the pertinent order(s) and rules, Defendant shall demonstrate by clear, cogent, and convincing evidence compliance with the requirements of the applicable rule as well as with the following requirements:

- a. Defendant properly wound down her law practice and complied with the terms of 27 N.C. Admin. Code 1B.0128;
- b. Defendant submitted her law license and membership card to the Secretary of the State Bar no later than 30 days following the effective date of the order lifting the stay;
- c. Within 15 days of the effective date of the activation of the suspension, Defendant shall have provided the Office of Counsel and the Membership Department of the State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files. Defendant must have kept this information current with the Membership Department of the State Bar, providing updated information to the State Bar within 15 days of any change;
- d. Defendant shall have promptly returned client files in her possession, custody, or control to clients upon request, within 15 days of receipt of such request. Defendant

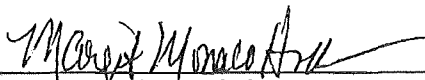
will be deemed to have received any such request 3 days after the date such request is sent to Defendant if the request is sent to the address Defendant provided the Membership Department of the State Bar pursuant to the preceding paragraph;

- e. Defendant disbursed to the proper recipients all identified client funds in any trust account she maintained upon the termination of her representation by the activation of her suspension;
- f. Defendant completed four hours of continuing legal education in the area of trust account management approved by the Office of Counsel of the State Bar, including at least one CLE by the Trust Account Compliance Counsel for the North Carolina State Bar;
- g. Defendant kept the Membership Department of the State Bar informed of her current information for her physical address (not a Post Office box), telephone number, and e-mail address throughout the period of her suspension;
- h. 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;
- i. 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 her suspension;
- j. Defendant came into compliance with any outstanding continuing education or membership obligations at the time of the filing of her petition for reinstatement;
- k. Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- l. Defendant does not violate any laws of the United States or any state or local government the violation of which would reflect adversely on Defendant's honesty, trustworthiness, or fitness as a lawyer in other respects;
- m. Defendant paid all costs and fees of this proceeding as assessed by the Secretary by the date of the filing of her petition for reinstatement or motion for stay; and
- n. If Defendant failed 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 wind-down expenses incurred.

6. 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 29
day of July, 2021.



Margit Monaco Hicks, Chair
Disciplinary Hearing Panel


WE CONSENT:



Angela S. Becker
Defendant

7/26/2021

Date



Deanna S. Brocker
Attorney for Defendant

7/28/2021

Date



Jennifer A. Porter, Deputy Counsel
Attorney for Plaintiff

7/28/2021

Date