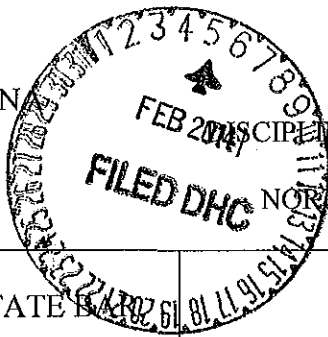


STATE OF NORTH CAROLINA

WAKE COUNTY

THE NORTH CAROLINA STATE BAR



BEFORE THE

DISCIPLINARY HEARING COMMISSION

OF THE

NORTH CAROLINA STATE BAR

13 DHC 26

Plaintiff

v.

GREGORY A. BULLARD, Attorney,

Defendant

CONSENT
ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Renny W. Deese, Chair, and members Fred M. Morelock and Michael S. Edwards, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Plaintiff was represented by Mary D. Winstead. Defendant, Gregory A. Bullard appeared pro se. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order and to the discipline imposed. Bullard has freely and voluntarily stipulated to the following findings of fact and consents to the conclusions of law and entry of the Order of Discipline. Bullard freely and voluntarily waives any and all right to appeal the entry of this consent Order of Discipline.

Based upon the pleadings in this matter and with the consent of the parties, the Hearing Panel hereby enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina 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, Gregory A. Bullard, was admitted to the North Carolina State Bar in 2000 and is an Attorney at Law 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 relevant period referred to herein, Bullard was actively engaged in the practice of law in Pembroke, Robeson County, North Carolina.

4. Bullard was properly served with process and received due notice of the hearing in this matter.

5. In connection with his law practice, Bullard maintained an attorney trust account at First Bank, a general trust account (account number ending 0495).

6. On January 7, 2011 Plaintiff conducted a random audit of Bullard's attorney trust account pursuant to 27 NC Admin. Code Chapter 1, Subchapter B, Rule .0128(b) of the Rules and Regulations of the North Carolina State Bar.

7. The audit revealed several violations of the trust account record keeping and accounting rules set forth in Rule 1.15 et seq. of the Rules of Professional Conduct.

8. Specifically, the audit revealed numerous failures by Bullard to properly maintain and document his attorney trust account, including:

- (a) Failure to maintain client ledgers for each person or entity from whom or for whom entrusted funds were received;
- (b) Failure to conduct monthly and quarterly reconciliations;
- (c) Failure to always identify the source of funds on deposit slips;
- (d) Failure to always provide written accountings to clients at the completion of disbursement or at least annually if funds were held for more than 12 months;
- (e) Failure to use business size checks containing an Auxiliary On-Us field; and
- (f) Failure to file with First Bank a directive to report to the State Bar any time a trust account check was presented against insufficient funds.

9. Staff Auditor Bruno DeMolli gave Defendant until February 28, 2011 to correct the deficiencies noted in order to comply with Rule 1.15 and to provide the State Bar with the monthly reconciliation for January 2011.

10. Defendant requested multiple extensions of time to comply which were granted.

11. Mr. DeMolli gave Defendant a final extension until July 17, 2011.

12. Defendant failed to provide the January 2011 reconciliation or satisfactory proof that he had taken the corrective measures by the deadline.

13. On or about September 8, 2011, Defendant signed a contract with the State Bar's Trust Account Compliance Program (TACP) which required him to meet certain requirements including providing quarterly reconciliations and a monthly reconciliation for the month of September 2011.

14. On November 1, 2011, Peter G. Bolac, Trust Account Compliance Counsel, requested that by November 23, 2011, Defendant provide the State Bar with a quarterly reconciliation for the third quarter of 2011, the monthly reconciliation for October 2011, the

Amended Directive to the bank, and a copy of a business size check containing the Auxiliary On-Us field.

15. Defendant failed to comply with the terms of the TACP.

16. As a result of Defendant's failure to comply with the TACP, he was dismissed from that program and the State Bar opened a grievance file in this matter.

17. In July of 2011, Defendant reported to the State Bar that his review of his trust account bank records revealed that there was a recurring trust account balance of over \$20,000 for which he was unable to identify the beneficial owners.

18. On April 10, 2012, Wake County Superior Court entered a consent order of preliminary injunction prohibiting Defendant from handling entrusted funds.

19. In a letter to Defendant dated June 1, 2012, Deputy Counsel requested that Respondent identify the beneficial owners of the funds in his trust account by June 15, 2012.

20. Defendant did not take steps to identify the beneficial owners of the funds in his trust account within a reasonable period of time after he discovered the problem or by the June 15, 2012 deadline.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Responsibility in effect at the time of the conduct as follows:

- (a) By failing to maintain a client ledger for each person from whom or for whom trust money was received, Defendant violated Rule 1.15-3(b)(5);
- (b) By failing to reconcile his trust account, Defendant violated Rule 1.15-3(d);
- (c) By failing to identify the client on all deposit slips, Defendant violated Rule 1.15-3(b)(1);
- (d) By failing to provide all clients with written accountings of entrusted funds, Defendant violated Rule 1.15-3(e);
- (e) By failing to use business size checks containing an Auxiliary On-Us field, Defendant violated Rule 1.15-3(a);

- (f) By failing to authorize his bank to report to the State Bar any trust account check presented against insufficient funds, Defendant violated Rule 1.15-2(k);
- (g) By failing to maintain complete trust account records and client ledgers, Defendant violated Rules 1.15-3(b) and (g);
- (h) By failing to identify all beneficial owners of the funds in his trust account, Defendant failed to identify entrusted funds in violation of Rule 1.15-(a); and
- (i) By failing to respond to requests from the TACP, Defendant violated Rule 8.1(b).

Based upon the foregoing Findings of Fact and Conclusions of Law, and with the consent of the parties, the Hearing Panel enters the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Although Bullard's failure to properly identify, account for, and maintain entrusted funds created a foreseeable risk of harm to the clients whose money he held in trust, Bullard's mismanagement of his trust account does not reflect dishonest or selfish intent.
2. A lawyer's mismanagement of entrusted funds erodes the confidence clients place in attorneys who handle their affairs. As a result, such conduct harms the profession as a whole.
3. Defendant has now made efforts to identify the beneficial owners of funds held in his trust account and is prepared to distribute those funds.
4. In 2013, the State Bar's Grievance Committee issued an Admonition to Bullard in 10G0189 for conditioning settlement of a client's case on the client's agreement to dismiss a grievance against Bullard.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, and the consent of the parties, the Hearing Panel enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension and disbarment.
2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(2), and determined that none of the factors warranting disbarment is present.
3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) and (3) and determines the following factors are applicable:
 - (a) Intent of the defendant to commit acts where the potential harm was foreseeable;
 - (b) Prior disciplinary offense;

- (c) Absence of dishonest or selfish motive;
- (d) Multiple offenses;
- (e) Remorse;
- (f) Cooperative attitude toward the proceedings; and
- (g) Experience in the practice of law

4. A censure, reprimand, or admonition would be insufficient discipline because of the significant potential harm to clients and the profession caused by Defendant's conduct.

5. Although Defendant's conduct is serious enough to warrant more discipline than a censure, it does not warrant an active suspension of his license.

6. The public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant to ensure protection of the public and continued compliance with the Rules of Professional Conduct. Defendant must demonstrate that he is properly maintaining and accounting for any funds received by him in trust or in a fiduciary capacity.

7. A stayed suspension of Defendant's law license is warranted insofar as entry of an order imposing less severe discipline would fail to acknowledge the seriousness of the misconduct and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, Conclusions of Law Regarding Discipline, and the consent of the parties, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. The law license of Defendant, Gregory A. Bullard, is hereby suspended for two years. The suspension shall be stayed for five years as long as Defendant complies, and continues to comply, with the following conditions:

- (a) Bullard, at his own expense, will have any and all accounts into which he has deposited client funds (hereinafter "trust accounts") audited by a Certified Public Accountant within 90 days of service of this order. (These audits are referred to herein as "the CPA's initial audits").
 - i. The CPA's initial audits must identify the beneficial owners of the funds currently in Defendant's trust accounts and establish whether the balance(s) in the account(t)s are sufficient to cover all client funds defendant should be holding in trust.

- ii. Bullard will provide the CPA's initial audit reports to the State Bar within five days of receipt along with a proposed disbursement plan.
 - iii. Bullard will remedy any deficiencies identified in the CPA's initial audits and will bring his trust accounts into compliance with the Rules of Professional Conduct within 30 days of receipt of the audit report. Bullard will submit proof of any remedial action to the State Bar and to the CPA no later than 30 days after receipt of the CPA's report. Said remediation shall include Defendant personally depositing funds in the trust account to replenish any deficit in the account(s) and properly disbursing entrusted funds as described in paragraphs 1(b) and (c) below.
 - iv. If the CPA determines that remedial action is required, the CPA will provide to the Office of Counsel a final audit report certifying that Bullard's trust account(s) are in compliance with the Rules of Professional Conduct no later than 30 days after receipt of the remedial information from Defendant.
- (b) Defendant shall disburse all funds in his existing trust account to the beneficial owners within thirty days of notification that the State Bar approves of the disbursement plan.
- (c) If there are funds in the accounts for which the beneficial owner(s) cannot be identified, Bullard shall identify, maintain, and account for those unidentified funds until the beneficial owners are determined or until the funds are deemed abandoned, at which point Bullard shall escheat the funds.
- (d) After the initial audit of existing accounts, Defendant shall have a CPA audit his trust account on a quarterly basis to ensure Defendant's compliance with the Rules of Professional Conduct. In conjunction with the quarterly audits:
- i. The CPA must report quarterly to the Office of Counsel concerning the compliance of Defendant's trust account(s) with the Rules of Professional Conduct, with a copy of the report(s) sent simultaneously to Defendant. The CPA's reports are due no later than 30 days after the end of each quarter (first quarter's report due April 30, second quarter's report due July 30, third quarter's report due October 30, and fourth quarter's report due January 30);
 - ii. If any of the CPA's quarterly reports referenced in paragraph (d)(i) above note any irregularities or deficiencies, Defendant shall take all remedial action necessary to bring the trust account(s) into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the Office of Counsel of the State Bar and to the CPA within 30 days of the date of the CPA's report;
 - iii. If any of the CPA's quarterly reports referenced in paragraph (d)(i) above note any irregularities or deficiencies in Defendant's handling of entrusted

funds, the CPA shall provide a subsequent report regarding whether Defendant's remedial actions were sufficient and whether Defendant's account(s) has been brought into compliance with the Rules of Professional Conduct. The CPA shall provide this report regarding remedial measures to the Office of Counsel within 30 days of Defendant's provision of proof of remedial action.

- (e) All CPA evaluations, reports, and services referred to herein will be completed and submitted at Defendant's sole expense.
- (f) It is Defendant's sole responsibility to ensure the CPA completes and timely submits the reports as required herein. Failure of the CPA to submit any report required by this Order shall be grounds to lift the stay and activate the suspension;
- (g) All CPA evaluations, reports, and services referred to herein will be completed and submitted at Defendant's sole expense;
- (h) Failure of the CPA to submit any report required by this Order shall be grounds to lift the stay and activate the suspension;
- (i) Defendant shall successfully complete four hours of continuing legal education in the area of trust account management within the first year after the effective date of this order. Defendant shall provide written proof of successful completion of the CLE courses to the State Bar within ten days of completing the courses. This is in addition to the standard annual CLE requirements;
- (j) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
- (k) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and shall notify the Bar of any change in address within ten days of such change;
- (l) Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;
- (m) Defendant shall promptly accept service of all certified mail from the State Bar that is sent to him; and
- (n) Defendant shall timely comply with all State Bar Membership and Continuing Legal Education requirements.

2. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 1(a) – (n) above, the stay of the suspension may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

3. If the stay granted herein is lifted or the suspension of Defendant's license is activated for any reason, before seeking reinstatement of his license to practice law, Defendant must show by clear, cogent and convincing evidence that he has complied with each of the following conditions:

- (a) Defendant satisfied the initial audit, replenishment, and disbursement conditions set forth in paragraphs 2(a), (b), and (c), above.
- (b) Defendant completed four hours of trust accounting CLE.
- (c) Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty days after the date of the order lifting the stay and/or activating the suspension of his law license;
- (d) Defendant complied with all provisions of 27 N.C.A.C. 1B § .0124 following the order lifting the stay and/or activating the suspension of his law license;
- (e) Defendant kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten days of such change;
- (f) Defendant responded to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and participated in good faith in the State Bar's fee dispute resolution process for any petition of which he received notice after the effective date of this Order;
- (g) Defendant promptly accepted all certified mail sent to him by the State Bar;
- (h) That at the time of his petition for reinstatement, Defendant is current in payment of all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from him, as well as all judicial district dues, fees and assessments;
- (i) That at the time of his petition for reinstatement, there is no deficit in Defendant's completion of mandatory CLE hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs;
- (j) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during her suspension;

(k) Defendant has paid the administrative fees and costs of this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar; and

(l) Defendant has complied with any other conditions deemed necessary for reinstatement imposed by the Hearing Panel pursuant to the order lifting the stay of the suspension of Defendant's law license.

4. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end five years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the 2 year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

5. Any order of the Administrative Committee of the North Carolina State Bar placing Defendant in inactive status for any reason shall toll the running of the suspension, the period of the stay of the suspension, and Defendant's obligation to comply with the terms of the stay of the suspension under this order. Upon Defendant's reinstatement to active status by the Administrative Committee, the tolling of the running of the suspension and the stay of the suspension under this order shall be lifted, at which time Defendant's obligation to comply with the conditions of the stay of the suspension in this order will resume.

6. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary, which Defendant shall pay within thirty days of service of the notice of costs upon Defendant.

7. This Order shall be effective on the date it is filed.

Signed by the undersigned Chair with the knowledge and consent of the other members of the Hearing Panel, this is the 24th day of January, 2014.


Renny W. Deese, Chair
Hearing Panel

CONSENTED TO BY:

Mary D. Winstead

Mary D. Winstead
Counsel for Plaintiff

1/28/2014
Date

Gregory A. Bullard

Gregory A. Bullard
Defendant

1/27/2014
Date