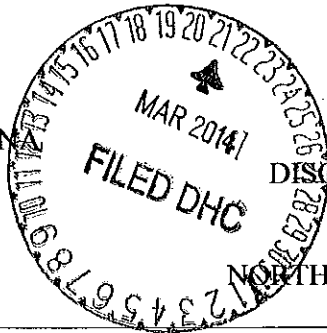


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING
 COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 14 DHC 2

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MICHAEL H. GRIFFIN, Attorney,

Defendant

CONSENT ORDER OF DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Ronald R. Davis, Chair, Renny W. Deese, and Randy Morcau. Leanor Bailey Hodge represented Plaintiff, the North Carolina State Bar. Defendant, Michael H. Griffin, appeared *pro se*. Defendant waives a formal hearing. The parties stipulate and agree to the findings of fact and conclusions of law recited below. The parties consent to the discipline imposed by this order. By consenting to entry of this order, Defendant knowingly, freely and voluntarily waives his right to appeal this order or to challenge in any way the sufficiency of the findings of fact or conclusions of law or the propriety of the discipline imposed.

Based on the foregoing and on the consent of the parties, the Hearing Panel hereby makes 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 North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Michael H. Griffin ("Griffin" or "Defendant"), was admitted to the North Carolina State Bar on August 19, 1979, 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 the relevant periods referred to herein, Griffin was engaged in the practice of law in the State of North Carolina and maintained a law office in Shelby, Cleveland County, North Carolina.

4. Griffin maintained a general attorney trust account with BB&T bank, account number ending 9623 (hereinafter "trust account").

5. Griffin maintained the trust account for his general practice that consisted mainly of real estate transactions and personal injury matters.

6. On 3 February 2010, Griffin was the subject of a random audit of his trust account.

7. The random audit showed deficiencies in Griffin's management of his trust account including: failure to maintain proper client ledgers, failure to provide annual accountings to clients for whom he held funds in trust for more than twelve months, failure to perform quarterly or monthly reconciliations of the trust account, failure to promptly disburse client funds and disbursing for the benefit of one client funds held in trust for the benefit of another client.

8. Griffin had previously been the subject of two prior random audits: one in January 2003 and one in September 2006. Like the February 2010 audit, the September 2006 audit showed that Griffin failed to reconcile his trust account and failed to provide annual accountings to clients.

9. An investigative audit of Griffin's trust account was conducted after the February 2010 random audit.

10. The results of the investigative audit confirmed the existence of the deficiencies found during the February 2010 random audit and showed that the deficiencies in Griffin's trust account were a consequence of Griffin's poor record keeping and failure to reconcile his trust account.

11. In the following instances, Griffin disbursed more funds for clients than he held in the trust account on their behalf:

- (a) T. Glover -\$123.27 on or about 24 March 2008;
- (b) K. Lynch -\$110.00 on or about 25 April 2008;
- (c) D. McDonald -\$146.00 on or about 23 February 2009;
- (d) M. Frost -\$64.18 on or about 17 April 2009;
- (e) H. Ingram -\$9.00 on or about 13 July 2009; and,
- (f) G. Cabaniss -\$8.59 on or about on 29 December 2009.

12. In the following instances, Griffin advanced funds for clients before making the deposit into the trust account on their behalf:

- (a) 1 October 2008 - \$100.00 to J. Bell;
- (b) 16 December 2008 - \$23.00 to Cleveland County Register of Deeds for D. Bridges;
- (c) 3 February 2009 - \$11,727.15 to B. Evans;
- (d) 3 March 2009 - \$146.00 to Clerk of Court for V. Agosto; and
- (e) 3 March 2009 - \$156.00 to Clerk of Court for R. Boone.

13. In eight instances, Griffin failed to timely disburse funds to clients or to third parties on their behalf.

14. On or about 24 February 2010, Griffin disbursed from the trust account fees to himself in the amount of \$1,938.94 and failed to list on the face of the check the client balances from which these fees were drawn.

15. The fees and expenses that Griffin disbursed from the trust account to himself on or about 24 February 2010 had been held in the trust account for more than a year.

Based upon the consent of the parties and the foregoing 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, Michael H. Griffin, and over 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 as follows:
 - a. By failing to maintain accurate client ledgers, Griffin failed to maintain minimum records for accounts at banks in violation of Rule 1.15-3(b);
 - b. By failing to provide each client with a written accounting of his or her trust account balance at least annually, Griffin failed to render to the client a written accounting of the receipt and disbursement of all trust funds at least annually when the funds were maintained for more than a year in violation of Rule 1-15-3(e);

- c. By failing to reconcile his trust account, Griffin failed to perform monthly and quarterly reconciliations of his general trust account in violation of Rule 1.15-3(d);
- d. By disbursing funds for the benefit of clients for whose benefit he did not hold funds in trust and by disbursing more funds for the benefit of clients than he held in the trust account on said clients' behalf, Griffin used entrusted property for the personal benefit of persons other than the legal or beneficial owners of that property in violation of Rule 1.15-2(j);
- e. By failing to timely to disburse client funds for eight clients, Griffin failed to promptly deliver client property in violation of Rule 1.15-2(m);
- f. By failing to list on the trust account check for \$1,938.94 the names of the client balances from which the fees and expenses were drawn, Griffin failed to indicate on an item payable to the lawyer the client balance from which the item was drawn in violation of Rule 1.15-2(h); and
- g. By failing to promptly withdraw his legal fees and expenses from his trust account, Griffin failed to maintain entrusted funds separate from his personal funds in violation of Rule 1.15-2(a).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. Griffin's clients were vulnerable in that they entrusted their funds to Griffin to be disbursed on their behalf according to their instruction.
2. Griffin has no prior discipline.
3. There is no evidence of any dishonest or selfish motive on the part of Griffin.
4. Griffin cooperated with the State Bar during its investigation and prosecution of this case.

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

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of factors contained in 27 N.C.A.C. 1B § .0114(w)(1), the Rules and Regulations of the State Bar, and concludes that the following factors that warrant suspension are present:

- (a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable; and
- (b) Negative impact of the defendant's actions on clients' and public's perception of the profession.

2. The Hearing Panel has considered all of the factors contained in 27 N.C.A.C. 1B § .0114(w)(2), the Rules and Regulations of the State Bar, and concludes that no factors that warrant disbarment are present.

3. The Hearing Panel has considered all the factors contained in 27 N.C.A.C. 1B § .0114(w)(3), the Rules and Regulations of the State Bar, and concludes that the following are applicable in this matter:

- (a) No prior disciplinary offenses;
- (b) Absence of dishonest or selfish motive;
- (c) Defendant's cooperative attitude toward the proceedings;
- (d) Vulnerability of the victims;
- (e) Multiple offenses; and,
- (f) Defendant has been licensed to practice law for approximately thirty years.

4. Defendant's misconduct resulted in potential significant harm to his clients by placing entrusted client funds at risk of misapplication and misappropriation.

5. Defendant's failure to properly maintain, manage and handle entrusted funds betrays a vital trust that clients and the public place in attorneys and the legal profession.

6. The Hearing Panel has considered all lesser sanctions including: censure, reprimand and admonition, and finds that discipline less than suspension would not adequately protect the public from Defendant's future misconduct because (i) of the gravity of potential significant harm to clients, and (ii) lesser discipline would fail to acknowledge the seriousness of the violations committed by Defendant and would send

the wrong message to attorneys 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 Regarding Discipline and Conclusions of Law Regarding Discipline, and on the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Michael H. Griffin, is hereby suspended from the practice of law for two years, effective 30 days from service of this order upon Griffin.

2. Defendant shall pay, within 30 days of service of the statement of fees and costs upon him by the Secretary of the State Bar, the administrative fees and costs of this proceeding.

3. The two year suspension is stayed for a period of three years as long as Defendant complies with the following conditions:

- (a) Griffin pays the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 30 days of service of the statement of fees and costs upon him.
- (b) Griffin shall provide to the State Bar monthly the three-way reconciliation of all attorney trust accounts to which he has access using the reconciliation method described in the State Bar Lawyer's Trust Account Handbook, rev. 05/2011, pages 34 – 43. In addition to the three-way reconciliation report, Griffin shall provide (i) client ledgers for each client whose funds are held in the trust account during the month covered by the submitted report, (ii) ledger for any personal funds maintained in the trust account(s) for bank or credit card fees, (iii) the general ledger(s) of any trust account to which Griffin has access, and (iv) the bank statement, canceled checks and deposit slips for any trust account to which Griffin has access.
- (c) Griffin shall provide any other records requested by the Office of Counsel within ten days of the request.
- (d) Within six months of the effective date of this order, Griffin shall complete the trust account continuing legal education (CLE) course taught by NC State Bar Trust Accounting Compliance Counsel Peter Bolac (usually titled "Trust Accounting Rules" or "Trust Accounting Rules: Avoid the Pitfalls.") This CLE requirement is in addition to the CLE requirements set out in 27 N.C.A.C. 1D § .1518.
- (e) Griffin shall keep the State Bar Membership Department advised of his current business and home addresses. Griffin shall notify the State Bar of any change of address within ten days of such change. Any address Griffin

provides to the State Bar as his current business address must be a street address, not a post office box or drawer.

- (f) Griffin shall 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.
- (g) Griffin 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.
- (h) Griffin shall timely comply with all State Bar Membership and CLE requirements.
- (i) Griffin shall not violate the Rules of Professional Conduct or the laws of the United States or any state or local government.

4. 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 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 of 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. If Griffin fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted in accordance with 27 N.C.A.C 1B § .0114(x).

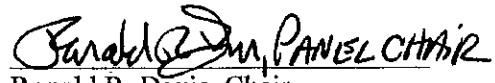
6. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Griffin's license at the end of the suspension. Additionally, Griffin must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

- (a) Griffin submitted his law license and membership card to the Secretary of the State Bar within 30 days of the date of the order lifting the stay and/or activating the suspension of his law license;

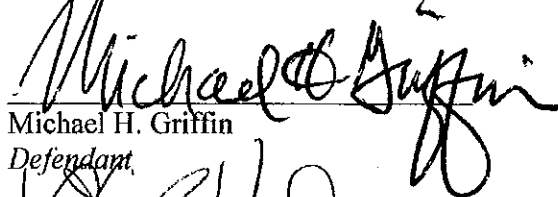
- (b) Griffin complied with the provisions of 27 N.C.A.C 1B § .0124 of the State Bar Discipline and Disability Rules following entry of the order lifting the stay and/or activating the suspension of his law license;
- (c) Griffin timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (d) That within 15 days of the effective date of the order activating the suspension Griffin provided the State Bar with an address and telephone number at which clients seeking return of files can communicate with Griffin and obtain such files;
- (e) That Griffin promptly provided client files to all clients who made a request for return of their files;
- (f) Griffin has kept the State Bar Membership; Department advised of his current business and home street address within ten days of such change;
- (g) Griffin has responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within 30 days of receipt or by the deadline stated in the communication, whichever is sooner;
- (h) At the time of his petition for reinstatement, Griffin 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, including all judicial district dues and assessments;
- (i) At the time of his petition for reinstatement, there is no deficit in Griffin's completion of mandatory CLE hours, in reporting of such hours or in payment of any fees associated with attendance at CLE programs;
- (j) At the time of his petition for reinstatement, Griffin has completed the trust account CLE course taught by NC State Bar Trust Accounting Compliance Counsel Peter Bolac (usually titled "Trust Accounting Rules" or "Trust Accounting Rules: Avoid the Pitfalls."); and
- (k) Griffin has not violated the Rules of Professional Conduct or the laws of the United States or any state or local government.

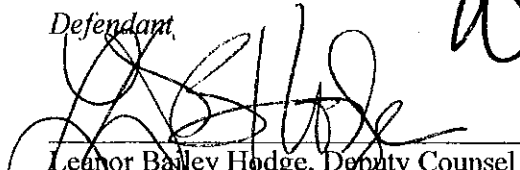
7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) until all conditions of the stay of suspension are satisfied.

Signed by the Chair with the consent of the other Hearing Panel members this the
21st day of MARCH, 2014.


Ronald R. Davis, Chair
Disciplinary Hearing Panel

WE CONSENT:


Michael H. Griffin
Defendant


Lleanor Bailey Hodge, Deputy Counsel
Attorney for Plaintiff