

1 Case Number: OBC21-0072



FILED

MAR 22 2022

STATE BAR OF NEVADA
BY *[Signature]*
OFFICE OF BAR COUNSEL

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STATE BAR OF NEVADA

NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,)
)
Complainant,)
vs.)
)
CALVIN X. DUNLAP, ESQ.)
STATE BAR NO. 2111)
)
Respondent.)
)

PUBLIC REPRIMAND

15 TO: Calvin X. Dunlap, Esq.
16 537 Ralston Street
16 Reno, Nevada 89503

17 Background

18 On April 18, 2019, you were issued a Letter of Reprimand for violating RPC 1.15
19 (Safekeeping Property) because you left funds in the Client Trust Account after being
20 earned and there were multiple withdrawals for which you were unable to fully account for
21 source of the fee being earned.

22 The Letter of Reprimand stated

23 Your co-mingling of your funds with clients' funds exposes your clients' funds
24 to the risk of attachment by your own creditors and the potential that you will
25 overdraw from the account. Your inability to promptly account for the funds
withdrawn from the IOLTA Trust Account also exposes the potential that you
will overdraw from the account.

1 The Letter of Reprimand identified that the misconduct warranted a suspension,
2 pursuant to application of Standard 4.12 of the ABA Standards for Imposing Lawyer
3 Sanctions, but that your 50 years of practicing law without receiving discipline and a lack
4 of actual injury to any clients warranted a substantial deviation down to imposition of the
5 lowest form of discipline.

6 Facts of This Matter

7 On or about January 11, 2021, First Independent Bank/Torrey Pines Bank notified
8 the State Bar of an overdraft in your Client Trust Account. On January 8, 2021 a check for
9 \$1,000 was presented for payment from Respondent's Client Trust Account but the balance
10 of the account was only \$100. The \$1,000 check was made out to you, not a client and the
11 bank honored the check despite the insufficient funds. You corrected the deficit on
12 February 23, 2021 when you deposited \$935, which included reimbursing the \$35
13 overdraft fee charged on January 8, 2021.

14 In response to the State Bar's demand, you provided (i) six months of statements for
15 your Client Trust Account, (ii) six months of statements for your operating account, (iii) a
16 current print out of the Client Trust Account general ledger, (iv) relevant settlement
17 disbursement sheets, and (v) copies of checks issued from the Client Trust Account.

18 The bank records show the following:

19 a. On October 5, 2020 you transferred \$8,310.66 into your
20 operating account. This sum was comprised of \$7,151.55 in fees and
21 costs for one client, \$664.61 in fees and costs for a second client. But
22 you could not identify a purpose for withdrawing the remaining
23 \$494.60.

24 b. On January 11 and 12, 2021 you deposited \$243,227.31 in
25 settlement funds for a third client, M.D.

1 c. On January 19, 2021, you disbursed \$16,168.35 to yourself as
2 reimbursement for multiple loans you provided to M.D. while you were
3 representing her.

4 The \$7,151.55 in the first client's fees and costs was consistent with the May 13, 2019
5 distribution sheet in that matter. The \$664.61 in the second client's fees and costs was
6 based on an October 10, 2019 check received in that matter.

7 Violations of the Rules of Professional Conduct

8 Pursuant to RPC 1.8(e) (Conflict of Interest: Current Clients: Specific Rules), you
9 had a duty to refrain from providing a client with financial assistance during the pendency
10 of her litigation. You knowingly¹ violated RPC 1.8(e) by loaning your client money while
11 representing her and repaying the loan from her settlement proceeds. This rule violation
12 had the potential to injure your client and did injure the integrity of the profession.

13 Pursuant to RPC 1.15 (Safekeeping Property), you had a duty to safekeep your
14 clients' funds, properly record funds to be distributed, and timely distribute those funds.
15 You negligently violated RPC 1.15 when you failed to adequately maintain records of funds
16 in your Client Trust Account which resulted in you being unable account for the source of
17 \$494.60 of funds distributed to yourself. You also failed to promptly distribute funds to
18 yourself from the Client Trust Account. This rule violation had the potential to injure a
19 client and did injure the integrity of the profession.

20 Application of the ABA Standards for Imposing Lawyer Sanctions

21 Pursuant to Standard 4.32 of the ABA Standards for Imposing Lawyer Sanctions,
22 the appropriate baseline sanction for your violation of RPC 1.8(e) is suspension. Moreover,

23 _____
24 ¹ The ABA Standards for Imposing Lawyer Sanctions define the mental state of "knowledge"
25 as "the conscious awareness of the nature or attendant circumstances of the conduct but
without the conscious objective or purpose to accomplish a particular result" which is less
culpable than an "intentional" mental state.

1 Standard 8.2 provides that suspension is the appropriate baseline sanction for your
2 violation of RPC 1.15.

3 However, consideration of the mitigating factors of (i) your absence of a dishonest
4 or selfish motive (SCR 102.5(2)(b)) and (ii) your cooperative attitude toward the discipline
5 proceeding (SCR 102.5(2)(e)) warrants a downward deviation from the baseline sanction
6 to imposition of a Public Reprimand.

7 PUBLIC REPRIMAND

8 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.8(e)
9 (Conflict of Interest: Current Clients: Specific Rules), and RPC 1.15 (Safekeeping Property)
10 and are hereby PUBLICLY REPRIMANDED and required to pay \$1,500 plus the hard costs
11 of the disciplinary proceedings within 30 days of the filing of the Order in the matter.

12 DATED this 22nd day of March, 2022.

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14 By: _____


ERIC STOVALL, ESQ.
Formal Hearing Panel Chair
Northern Nevada Disciplinary Board

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