PUBLIC MATTER

FILED

APR 14 2014

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL
JAYNE KIM, No. 174614
CHIEF TRIAL COUNSEL
JOSEPH R. CARLUCCI, No. 172309
DEPUTY CHIEF TRIAL COUNSEL
MELANIE J. LAWRENCE, No. 230102
ASSISTANT CHIEF TRIAL COUNSEL
LARA BAIRAMIAN, No. 253056
DEPUTY TRIAL COUNSEL
845 South Figueroa Street
Los Angeles, California 90017-2515
Telephone: (213) 765-1338

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

In the Matter of:	Case No. 13-J-13336
GEORGIA ANN MATHERS, No. 154840,	NOTICE OF DISCIPLINARY CHARGES
A Member of the State Bar.	(Bus. & Prof. Code, § 6049.1; Rules Proc. Of State Bar, rules 5.350 to 5.354)

kwiktag® 048 639 613

NOTICE - FAILURE TO RESPOND!

IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:

(1) YOUR DEFAULT WILL BE ENTERED;
(2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
(3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
(4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

The State Bar of California alleges:

JURISDICTION

1. Georgia Mathers ("Respondent") was admitted to the practice of law in the State of California on December 16, 1991, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

PROFESSIONAL MISCONDUCT IN A FOREIGN JURISDICTION

2. On or about May 9, 2013, the Supreme Court of Missouri ordered that Respondent be disciplined upon findings that Respondent had committed professional misconduct in that jurisdiction as set forth in the Order of the Supreme Court of Missouri in *In re: Georgia Mathers*, Supreme Court Number SC93269. Thereafter, the decision of the Supreme Court of Missouri became final.

3. A certified copy of the May 9, 2013 Order of the Supreme Court of Missouri in *In re: Georgia Mathers* is attached as Exhibit 1 and incorporated by reference.

4. A certified copy of the Statement of Acceptance of Disciplinary Hearing Panel Decision filed on April 1, 2013 is attached as Exhibit 2 and incorporated by reference

5. In *In re: Georgia Mathers*, the Supreme Court of Missouri found that Respondent violated Supreme Court Rules of Professional Conduct, rules 4-1.15(c), 4-1.15(f) and 4-8.1(c). Copies of rules 4-1.15(c), 4-1.15(f) and 4-8.1(c) found to have been violated by Respondent are attached as Exhibit 3 and incorporated by reference.

6. Respondent's culpability as determined by the foreign jurisdiction indicates that the following California statutes or rules have been violated or warrant the filing of this Notice of Disciplinary Charges: California Rules of Professional Conduct rule 4-100(A).

ISSUES FOR DISCIPLINARY PROCEEDINGS

7. The attached findings and final order are conclusive evidence that Respondent is culpable of professional misconduct in this state subject only to the following issues:

A. The degree of discipline to impose;

B. Whether, as a matter of law, Respondent's culpability determined in the proceeding in the other jurisdiction would not warrant the imposition of discipline in the State of California under the laws or rules binding upon members of the State Bar at the time the member committed misconduct in such other jurisdiction; and

C. Whether the proceedings of the other jurisdiction lacked fundamental constitutional protection.

8. Respondent shall bear the burden of proof with regard to the issues set forth in subparagraphs B and C of the preceding paragraph.

NOTICE - INACTIVE ENROLLMENT!

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

NOTICE - COST ASSESSMENT!

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: April 14, 2014

By:
Lara Baramian
Deputy Trial Counsel

Supreme Court of Missouri
en banc

May 9, 2013

In re: Georgia Mathers,	)	
	)	
Respondent.	)	Supreme Court No. SC93269
	)	MBE # 58025

ORDER

Now at this day, the Court being sufficiently advised of and concerning the premises and having considered the statement of acceptance of the Disciplinary Hearing Panel decision pursuant to Rule 5.19(c), the Court finds that Respondent, Georgia Mathers, Missouri Bar No. 58025, violated Rules 4-1.15(c), 4-1.15 (f) and 4-8.1(c) of the Rules of Professional Conduct and should be disciplined;

In accordance with previous disciplinary decisions of this Court, it is ordered that Respondent, Georgia Mathers, is hereby suspended from the practice of law and that no petition for reinstatement will be entertained for a period of two years from the date of this order.

It is further ordered that Georgia Mathers comply in all respect with Rule 5.27 – Procedure Following a Disbarment or Suspension Order.

Fee in the amount of $1,000 payable to the Clerk of this Court to the credit of the Advisory Committee Fund taxed to Respondent.

Costs taxed to Respondent.

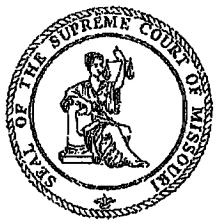
Day - to - Day

Richard B. Teitelman
Chief Justice

STATE OF MISSOURI – SCT.:

I, BILL L. THOMPSON, Clerk of the Supreme Court of Missouri, do hereby certify that the foregoing is a true copy of the order of said court, entered on the 9th day of May, 2013, as fully as the same appears of record in my office.

IN TESTIMONY WHEREOF, *I have hereunto set my hand and affixed the seal of said Supreme Court. Done at office in the City of Jefferson, State aforesaid, this 9th day of May, 2013.*



Bill L. Thompson, **Clerk**

Cynthia L. Turley, **Deputy Clerk**

CLERK OF THE SUPREME COURT

STATE OF MISSOURI
POST OFFICE BOX 150
JEFFERSON CITY, MISSOURI
65102

BILL L. THOMPSON
CLERK

TELEPHONE
(573) 751-4144

June 13, 2013

STATE OF MISSOURI -- SCT.:

I, BILL L. THOMPSON, Clerk of the Supreme Court of Missouri, do hereby certify that the attached is a true and correct copy of the Statement of Acceptance of Disciplinary Hearing Panel Decision filed on April 1, 2013, consisting of 75 pages, with the exception of Paragraph 13 of the Joint Stipulation, which was sealed by order of the Court, as fully as the same appears on file in my office in the proceeding styled: In re: Georgia Mathers, Respondent. Supreme Court No. SC93269.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court. Done at my office in the City of Jefferson, State aforesaid, this 13th day of June, 2013.

Bill L. Thompson

Clerk,

Lori S. Knaebel

Deputy Clerk, Court en Banc

SC93269

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

IN THE SUPREME COURT OF MISSOURI
EN BANC

IN RE:	)	
	)	
GEORGIA MATHERS	)	
343 Hunters Run,	)	
Jefferson City, MO 65109	)	**Case No. SC_____**
	)	
	)	
MISSOURI BAR NO. 58025	)	
	)	
	)	
Respondent.	)	

STATEMENT OF ACCEPTANCE OF
DISCIPLINARY HEARING PANEL DECISION

COMES NOW Informant, the Chief Disciplinary Counsel, and submits this Statement of Acceptance pursuant to Rule 5.19(c) in the above-styled case.

1. On July 30, 2012, pursuant to Rule 5.11(c), Informant filed with the Missouri Supreme Court Advisory Committee an Information charging Respondent Georgia Mathers with violating the Missouri Rules of Professional Conduct. A copy of the Information is attached as **Exhibit A.**

2. On December 11, 2012, the Advisory Committee appointed a Disciplinary Hearing Panel ("Panel") to hear this case, in accordance with Rule 5.14(a).

3. On January 29, 2013, the parties entered into a "Joint Stipulation Of Facts, Joint Proposed Conclusions Of Law, Joint Recommended Discipline, And Informant's Suggestions In Support Of The Recommended Discipline" ("Stipulation"). A copy of the document is attached as **Exhibit B.**

4. On February 4, 2013, the Panel conducted a hearing in which the parties entered into evidence the Stipulation.

5. On or about February 5, 2013, the Advisory Committee received the Panel's Decision. The Panel's Decision was served on Informant and Respondent on February 13, 2013, pursuant to Rule 5.16(f). A copy of the Panel's Decision is attached as **Exhibit C**.

6. Informant filed an Acceptance of the Panel's Decision with the Advisory Committee on February 27, 2013, in accordance with Rule 5.19(a), a copy of which is attached as **Exhibit D**.

7. Respondent failed to file a Rejection of the Panel's Decision with the Advisory Committee within thirty days of the Advisory Committee mailing the decision to Respondent. Accordingly, pursuant to Rule 5.19(a), Respondent is deemed to have accepted the decision.

WHEREFORE, Informant states that under Rule 5.19(c), the case is ripe for the Court to issue a final order of discipline. Informant prays that the Court enter the following order:

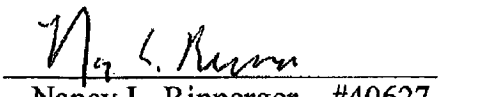
> Now at this day, the Court being sufficiently advised of and concerning the premises and having considered the statement of acceptance of the Disciplinary Hearing Panel decision pursuant to Rule 5.19(c), the Court finds that Respondent Georgia Mathers, Missouri Bar No. 58025, violated Rules 4-1.15(c), (f) and 4-8.1(c).

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

In accordance with previous disciplinary decisions of this Court, the Court suspends Georgia Mathers, with leave not given to reapply for reinstatement for two years. Fee pursuant to Rule 5.19(h) for $1,000 payable to the Clerk of this Court to the credit of the Advisory Committee Fund taxed to the Respondent. Costs taxed to the Respondent.

Respectfully submitted,

OFFICE OF
CHIEF DISCIPLINARY COUNSEL

By: 

Nancy L. Ripperger #40627
Staff Counsel
3335 American Avenue
Jefferson City, MO 65109
(573) 635-7400
(573) 635-2240 fax
Nancy.Ripperger@courts.mo.gov

ATTORNEYS FOR INFORMANT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by first-class mail on this 1st day of April, 2013 to:

Georgia Mathers
343 Hunters Run
Jefferson City, MO 65109

Respondent

Nancy L. Ripperger

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

IN THE SUPREME COURT OF MISSOURI
EN BANC

IN RE:	)	
	)	
GEORGIA MATHERS	)	
343 Hunters Run,	)	
Jefferson City, MO 65109	)	**DHP CASE NO. _____**
	)	
	)	
MISSOURI BAR NO. 58025	)	
	)	
	)	
Respondent.	)	

INFORMATION

COMES NOW the Office of Chief Disciplinary Counsel ("OCDC") and charges:

General Information

1. Informant is the Chief Disciplinary Counsel appointed by the Court pursuant to Rule 5.06.

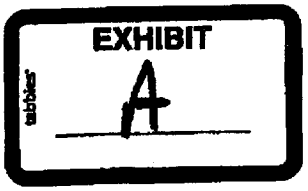
2. Informant has determined pursuant to Rule 5.11 that probable cause exists to believe that Respondent Georgia Mathers is guilty of professional misconduct.

3. Respondent was licensed to practice law in Missouri on October 13, 2005.

4. Respondent's Missouri Bar license is currently in good standing.

5. The address Respondent most recently registered with the Missouri Bar is 343 Hunters Run, Jefferson City, MO 65109.

6. Respondent has no prior disciplinary history.



Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

7. Respondent has a general, solo practice located in Jefferson City, MO. She previously practiced as a partner in the firm of Hanrahan & Nacy, P.C. but left that firm in 2011 to open her own solo practice.

8. Rule 4-8.4(a) provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct set forth in Supreme Court Rule 4.

TRUST ACCOUNT OVERDRAFT

9. Respondent maintains an attorney IOLTA trust account, as defined in Rule 4-1.15 at Hawthorn Bank in Jefferson City, MO. The bank has assigned her trust account a number ending in 0393 ("trust account").

10. On or about February 28, 2012, Hawthorn Bank, pursuant to Missouri Supreme Court Rule 4-1.15, notified Informant that Respondent had overdrawn her trust account. The notice provided that the bank had returned check no. 1142, in the amount of $249.98, payable to the Cole County Collector on February 27, 2012, because the check would have overdrawn the account.

11. On February 29, 2012, Informant requested that Respondent provide a written response regarding the overdraft within ten days. Informant further directed Respondent to provide the following for a one-year period:

a. monthly bank statements,

b. copies of all deposited items, and

c. copies of all items presented against the account.

12. Informant extended Respondent's response date until March 19, 2012, after Respondent requested additional time.

13. On March 18, 2012, Respondent provided Informant with a written response to the complaint. She alleged that she had overdrawn the account because she had failed to record a telephone payment to Dish Network of $268.81 on February 16, 2012.

14. On March 21, 2012, Respondent hand-delivered the requested trust account records to Informant's staff.

15. On March 23, 2012, Informant's staff wrote to Respondent and requested that Respondent provide Informant with the following by April 2, 2012:

a. copies of all client ledgers or billing statements for all clients whose funds were deposited into or disbursed from the trust account between February 1, 2011, and February 29, 2012; and

b. copies of Respondent's operating account statements from November 2011 through February 2012.

16. Respondent did not provided the requested documents by April 2, 2012, so on April 9, 2012, Informant's staff wrote to Respondent again. Staff advised Respondent that if she did not provide the requested documents Informant's staff would subpoena the documents.

17. On April 12, 2012, Respondent e-mailed copies of her previously provided trust account records to Informant instead of the requested documents.

18. On April 19, 2012, Informant's staff advised Respondent, via e-mail, that

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

she had not produced the requested documents and that it was imperative that she produce the requested documents immediately. Respondent then asked, via e-mail, to meet with Informant's staff.

19. On April 20, 2012, Respondent met with investigator/paralegal Kelly Dillon and staff counsel Melody Nashan. During the meeting, Respondent produced client ledgers. Respondent also disclosed that:

a. she did not have an operating account;

b. she uses her trust account as an operating account;

c. she deposits both earned and unearned fees into her trust account;

d. she pays personal expenses out of her trust account;

e. she charges all her clients flat fees with no written fee agreement, no set payment agreement and no billing statements; and

f. she has a personal account at another bank in which child support payments are deposited.

At the conclusion of the meeting, Informant's staff requested that Respondent provide them with monthly statements for her personal account along with copies of items deposited into the account and copies of items charged against the account.

20. On April 27, 2012, Informant's staff asked Respondent to provide a written explanation why she had a judgment against her from Accupay, a local payroll service, in the amount of $3,000.

21. On May 1, 2012, Informant's staff e-mailed Respondent again to determine why she had not provided the requested written response regarding the Accupay

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Judgment. Informant's staff also reminded Respondent that she had not produced the requested documents regarding her personal account. Informant's staff further advised that if Respondent did not produce the requested documents by May 4, 2012, Informant's staff would subpoena the documents from the bank.

22. Respondent did not produce the requested documents so on May 14, 2012, Informant's staff subpoenaed the records.

23. On May 21, 2012, and June 7, 2012, Bank of America produced the subpoenaed documents concerning Respondent's personal account.

24. On June 14, 2012, Informant's staff requested that Respondent produce, by no later than June 22, 2012, the receipt book that she used when clients paid her in cash.

25. On June 22, 2012, Respondent e-mailed Informant's staff and indicated that she was out of town but would bring the receipt book to Informant's office on June 27, 2012.

26. On July 19, 2012, Respondent provided a copy of her receipt book.

27. Respondent has failed to produce the account records for her personal account, and to provide a written explanation for the Accupay judgment.

TRUST ACCOUNT AUDIT

28. Informant's staff prepared a trust account audit spreadsheet reflecting checks, withdrawals, and deposits from Respondent's trust account. Informant's staff also audited the client ledgers provided by Respondent and her receipt book and reconciled the ledgers, the receipt book and the trust account.

29. The audit revealed that:

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

a. Respondent did not maintain and/or provide complete and accurate trust account records to Informant.

i. Respondent did not provide and/or maintain monthly ledgers showing all deposits and withdrawals.

1. Respondent did not provide a monthly ledger for April 2011, even though the trust account had activity during that month.

2. Respondent did not provide and/or maintain any monthly ledgers after October 2011, even though there was activity in the account after that time.

ii. Respondent's monthly ledgers were not accurate:

1. The July 2011 monthly ledger did not accurately reflect a $300 deposit on July 1.

a. The monthly ledger showed that the deposit was split with $100 from Allen Corbin and $200 from Fred Moore.

b. The deposit ticket showed that $100 was from Travis Wheeler and $100 from Jon Bryson. Respondent did not account for the remaining $100 on the deposit slip.

c. The client ledgers show that Respondent received $50 from Allan Corbin on July 1 or 6,

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

$100 from Jon Bryson on July 6, 2011 and $100 from Travis Wheeler on July 12, 2011. The receipt book also reflects these amounts, plus a $50 deposit for Allen Corbin on July 6, 2012.

2. The July 2011 monthly ledger did not show a July 14, 2011, deposit into the trust account for $300.
3. The August monthly ledger did not accurately reflect a $200 deposit on August 24.
    a. The monthly ledger showed that the funds were received from Sloane Duck. Mr. Duck's client ledger also reflected the deposit.
    b. The deposited check was from Debra Bates.
    c. Respondent maintained a client ledger for Debra Bates but it did not include the $200 deposit.
4. The August monthly ledger did not accurately reflect the withdrawal of fees via check no. 1004.
    a. The monthly ledger showed that check no. 1004 was for $200 and was a withdrawal of fees from Dan Hale. Check no. 1004 was actually in the amount of $1,100 and written to "cash." The check and client ledgers reflected that $900 of

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

the $1,100 withdrawal was for client Howard (Butch) Steenburgen.

iii. Respondent did not maintain accurate individual client ledgers.

1. Respondent did not have a client ledger for Tyler Walker.

   a. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

   b. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees- Walker."

2. Respondent did not have a client ledger for client Vanderfeltz.

   a. On October 6, 2011, Respondent made a $30 deposit into her trust account for client Vanderfeltz. The monthly ledger and the deposit ticket show the deposit but there is no client ledger.

3. Travis Deal's client ledger was not accurate.

   a. The individual client ledger shows that on February 21, 2012, Respondent withdrew $250

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

in cash, via check no. 1140, from Mr. Deal's funds.

b. Check no. 1140 was made payable to cash and was in the amount of $250. The notation on the check states that the check was a withdrawal of fees from client Angela Ames' funds.

c. Ms. Ames' individual ledger also reflects a withdrawal of $250 via check no. 1140.

b. Respondent did not deposit all of her client funds into her trust account.

i. Respondent did not deposit funds from Sara Poire into her trust account.

1. Both Respondent's August monthly ledger and Ms. Poire's client ledger show that Sara Poire paid Respondent $500 on August 1, 2011. There was no $500 deposit into the trust account on that date or any other nearby date.

2. Respondent did not deposit funds from client Antonio Adams into her trust account.

a. The client ledger for Antonio Adams shows a deposit of $500 on October 17, 2011.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

b. There was no deposit into the trust account on that date or any deposit for $500 around that date.

ii. Respondent paid herself out of the trust account when she had not deposited the client funds into the trust account or when her withdrawals exceeded the amount deposited into the trust account.

1. Respondent withdrew more from her trust account on behalf of client Richard Poire than she had deposited into the account.

a. On July 1, 2011, Respondent wrote check no. 1123, in the amount of $900 to "cash." The check cleared the account on the same date.

b. The check is recorded on Richard Poire's client ledger.

c. At the time the check cleared, Respondent was only holding $600 of Mr. Poire's funds.

2. Respondent withdrew more from her trust account on behalf of client Tyler Walker than she had deposited into the account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

a. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

b. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees- Walker."

3. Respondent withdrew more from her trust account on behalf of client Jason Wheeler than she had deposited into the trust account.

a. On February 25, 2012, Respondent wrote check no. 1061, payable to "cash" in the amount of $350.

b. The check number was shown on Jason Wheeler's client ledger as a withdrawal.

c. On February 25, 2012, Mr. Wheeler had only paid Respondent $260.

iii. Respondent made numerous personal withdrawals from the trust account that were not reflected on the monthly or client ledgers.

1. On October 14, 2011, Respondent wrote check no. 1008 in the amount of $33.37 to International Wines.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

a. There was no notation on the check and the check is not listed on the monthly or client ledgers.

2. On October 18, 2011, Respondent wrote check no. 1037, in the amount of $106.54, to Hy Vee grocery store.

   a. The check did not have any notation written on it and was not listed on the monthly ledger or client ledgers.

3. On October 24, 2011, Respondent made an electronic funds transfer, payable to Billpay Republic Services, in the amount of $65.50.

   a. The transfer was not reflected on the monthly ledger or the client ledgers.

4. On November 3, 2011, Respondent wrote check no. 1044, payable to American Eagle, in the amount of $47.38.

   a. There is no notation on the check.

   b. The check is not reflected on any of the client ledgers.

5. On December 13, 2011, Respondent wrote check no. 1051, payable to MC Sports, in the amount of $11.50.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

a. There is no notation on the check.

b. The check is not reflected on any of the client ledgers.

6. On January 17, 2012, Respondent wrote check no. 1132, payable to Shoe Carnival, in the amount of $68.93.

   a. The check is not reflected on any of the client ledgers.[1]

7. On January 24, 2012, Respondent wrote check no. 1133, payable to Barnes & Noble, in the amount of $4.00.

   a. The check is not reflected on any of the client ledgers.

8. On February 15, 2012, Respondent wrote check no. 1137, payable to Wal-Mart, in the amount of $83.25.

   a. The check is not reflected on any of the client ledgers.

[1] The bank did not have copies of all of the checks charged against the account. Some checks were processed electronically by the merchant and returned to Respondent instead of being forwarded to the bank. As a result, Informant does not know whether some checks had a client notation on them.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

9. On February 16, 2012, Respondent made an electronic transfer, payable to Dish Network, in the amount of $268.81.

   a. This is the transaction that Respondent allegedly forgot to record in her checkbook. Respondent asserts that the unrecorded transaction caused her to overdraw her trust account.

   b. In her explanation to Informant, Respondent contended that the funds were funds earned from Donnell Bank.

   c. Respondent's client ledger for Mr. Banks reflects a withdrawal of $300 instead of $268.81 and does not list the date of the withdrawal.

10. On February 27, 2012, Respondent made an electronic funds transfer payable to ERAC Enterprise, in the amount of $100.00.

    a. The amount is not reflected on any of the client ledgers.

11. On February 27, 2012, Respondent made an electronic funds transfer, payable to AT&T, in the amount of $115.21.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

a. The transaction is not reflected on any of the client ledgers;

12. On February 27, 2012, Respondent made an electronic funds transfer, payable to the Missouri Department of Motor Vehicles, in the amount of $86.00.

a. The transaction is not reflected on any of the client ledgers.

iv. Respondent wrote checks to "cash" from her trust account without notation regarding which client funds she was withdrawing and without the withdrawals being reflected on her client ledgers.

1. On December 1, 2011, Respondent wrote check no. 1048, in the amount of $50.00 to "cash."
2. On December 8, 2011, Respondent wrote check no. 1049, in the amount of $80.00, to "cash."
3. On December 9, 2011, Respondent wrote check no. 1050 in the amount of $160.00 to "cash."
4. On December 16, 2011, Respondent wrote check no. 1055, in the amount of $60.00 to "cash."
5. On December 22, 2011, Respondent wrote check no. 1056 in the amount of $50 to "cash."

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

6. On January 3, 2012, Respondent wrote check no. 1057 in the amount of $400 to "cash."
7. On January 12, 2012, Respondent wrote check no. 1130 in the amount of $250 to "cash."
8. On January 13, 2012, Respondent wrote check no. 1129 in the amount of $200 to "cash."
9. On January 13, 2012, Respondent wrote check no. 1131 in the amount of $100 to "cash."
10. On February 13, 2012, Respondent wrote check no. 1136 in the amount of $150 to "cash."
11. On February 27, 2012, Respondent wrote check no. 1062 in the amount of $550 to "cash."

v. On various dates, Respondent withdrew cash from her trust account. The withdrawals are not reflected on any of Respondent's client ledgers.

1. On December 1, 2011, Respondent withdrew $50 in cash from her trust account.
2. On December 20, 2011, Respondent withdrew $100 in cash from her trust account.
3. On December 30, 2011, Respondent withdrew $50 and $150 in cash from her trust account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

4. On January 1, 2012, Respondent withdrew $40 in cash from her trust account.

5. On January 19, 2012, Respondent withdrew $40 in cash from her trust account.

6. On January 23, 2012, Respondent withdrew $250 in cash from her trust account.

7. On January 31, 2012, Respondent withdrew $50 in cash from her trust account.

8. On February 6, 2012, Respondent withdrew $300 in cash from her trust account.

9. On February 13, 2012, Respondent withdrew $200 in cash from her trust account.

10. On February 14, 2012, Respondent withdrew $300 in cash from her trust account.

11. On February 24, 2012, Respondent withdrew $350 in cash from her trust account.

vi. Respondent did not maintain or provide accurate records of cash received. Respondent's receipt book starts at July 1, 2011 and does not document much of the case that went into the trust account.

30. Rule 4-1.15(c) provides that a lawyer shall keep property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. The

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

rule further provides that client or third party funds shall be kept in a separate account designated as a "client trust account."

31. Respondent violated Rule 4-1.15(c) when she

a. failed to deposit unearned fees into her trust account;

b. deposited earned funds into her trust account;

c. allowed earned funds to remain in her trust account; and

d. used the trust account as an operating account.

32. Rule 4-1.15(d) provides that an attorney shall keep complete records of client trust accounts for five years after the termination of the representation. The rule further provides that complete records include ledgers or similar equivalent records that clearly reflect the date, amount, source, and explanation for all withdrawals, deliveries, and disbursements of funds or other property of a client.

33. Respondent violated Rule 4-1.15(d) when she failed to:

a. maintain accurate monthly ledgers showing all deposits and withdrawals from the trust account; and

b. maintain accurate individual client ledgers.

34. Rule 4-1.15(f) provides that an attorney shall withdraw advance fees from a trust account only as the fees are earned.

35. Respondent violated Rule 4-1.15(f) when she:

a. withdrew funds from the trust account in excess of the amount that a particular client had paid her; and

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

b. when she withdrew funds without regard as to whether the funds had been earned.

36. Rule 4-8.1(c) provides that a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

37. Respondent violated Rule 4-8.1(c) when she failed to provide requested trust account documentation to Informant in a timely manner.

38. Rule 4-8.4(c) provides that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

39. Respondent violated Rule 4-8.4(c) when she used client funds for her own personal use.

WHEREFORE, Informant prays that a decision be issued finding that Respondent has committed professional misconduct as alleged in this Information; that Respondent be disciplined in accordance with Rule 5, and that costs be assessed against Respondent.

DESIGNATION OF COUNSEL

The Chief Disciplinary Counsel has designated the following as counsel of record for Informant:

Nancy L. Ripperger
3335 American Avenue
Jefferson City, MO 65109

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Respectfully submitted,

ALAN D. PRATZEL #29141
Chief Disciplinary Counsel

By: _____

Nancy L. Ripperger #40627
Staff Counsel
3335 American Avenue
Jefferson City, MO 65109
(573) 635-7400
(573) 635-2240 fax
Nancy.Ripperger@courts.mo.gov

Attorneys for Informant

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

IN THE SUPREME COURT OF MISSOURI
EN BANC

IN RE:	)	
	)	
GEORGIA MATHERS	)	
343 Hunters Run,	)	
Jefferson City, MO 65109	)	Case No. DHP-12-033
	)	
	)	
MISSOURI BAR NO. 58025	)	
DOB: [redacted]	)	
	)	
Respondent.	)	

JOINT STIPULATION OF FACTS, JOINT PROPOSED CONCLUSIONS OF LAW, JOINT RECOMMENDED DISCIPLINE, AND INFORMANT'S SUGGESTIONS IN SUPPORT OF THE RECOMMENDED DISCIPLINE

COMES NOW Informant and Respondent and stipulate to the following:

General Information

1. Informant is the Chief Disciplinary Counsel appointed by the Court pursuant to Rule 5.06.

2. Informant has determined pursuant to Rule 5.11 that probable cause exists to believe that Respondent Georgia Mathers is guilty of professional misconduct.

3. Respondent was licensed to practice law in Missouri on October 13, 2005.

4. Prior to being licensed in Missouri, Respondent was a public defender in California for many years.

EXHIBIT
3

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

5. Respondent's Missouri Bar license is currently in good standing. However, as of the date of the drafting of this Stipulation, Respondent has not yet paid her Bar dues for 2013. Respondent plans upon taking inactive status in the near future.

6. The address Respondent most recently registered with the Missouri Bar is 343 Hunters Run, Jefferson City, MO 65109.

7. Respondent is pro se in this action.

8. Respondent has no prior disciplinary history.

9. Respondent has a general, solo practice located in Jefferson City, MO. She opened the solo practice at the beginning of 2011.

10. Respondent previously practiced as a partner in a Jefferson City firm. In 2010, her relationship with the other partners became very acrimonious and she was forced out of the firm against her will. Respondent sued the other partners and was involved in litigation with the partners throughout 2011. This was a very stressful situation for Respondent.

11. Respondent divorced her husband at the end of 2010 and is presently involved in a custody dispute with her ex-husband. The divorce and custody dispute has been very stressful for Respondent.

12. Respondent agreed to represent many of her clients for very small fees or on a pro bono basis and, as a result, has suffered severe financial problems herself.

[redacted]

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

14. Respondent has been diagnosed with severe major depressive disorder, attention-deficit-disorder, and anxiety. Respondent is receiving treatment from both a psychiatrist and a psychologist. Due to her depression and desire to move to Nevada to be close to her son, Respondent is in the process of winding down her practice in Missouri.[1]

15. Respondent does not have the funds available to hire an independent, licensed mental health professional to offer an opinion that her mental health issues caused or had a direct and substantial relationship to the professional misconduct set forth below.

16. Respondent asserts, and Informant does not dispute, that due to the severe depression and anxiety she is experiencing, Respondent is not now able to effectively practice law at this time. Respondent is hopeful with continued treatment that her condition will improve such that she would be able to return to practice in the future.

---

[1] Informant has not seen Respondent's medical records except for a summary of Respondent's last visit to her psychiatrist. The summary listed the conditions set forth above. Informant requested that Respondent provide medical releases to Informant in October 2012. Respondent did not do so. Informant has observed behavior by Respondent which is consistent with the diagnoses listed.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

TRUST ACCOUNT OVERDRAFT

17. Respondent maintained an attorney IOLTA trust account, as defined in Rule 4-1.15, at Hawthorn Bank in Jefferson City, MO. The bank assigned her trust account a number ending in 0393 ("trust account").

18. On or about February 28, 2012, Hawthorn Bank, pursuant to Missouri Supreme Court Rule 4-1.15, notified Informant that Respondent had overdrawn her trust account. The notice provided that the bank had returned check no. 1142, in the amount of $249.98, payable to the Cole County Collector on February 27, 2012, because the check would have overdrawn the account.

19. On February 29, 2012, Informant requested that Respondent provide a written response regarding the overdraft within ten days. Informant further directed Respondent to provide the following for a one-year period:

a. monthly bank statements;

b. copies of all deposited items; and

c. copies of all items presented against the account.

20. Informant extended Respondent's response date until March 19, 2012, after Respondent requested additional time.

21. On March 18, 2012, Respondent provided Informant with a written response to the complaint. She alleged that she had overdrawn the account because she had failed to record a telephone payment to Dish Network of $268.81 on February 16, 2012.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

22. On March 21, 2012, Respondent hand-delivered the requested trust account records to Informant's staff.

23. On March 23, 2012, Informant's staff wrote to Respondent and requested that Respondent provide Informant with the following by April 2, 2012:

a. copies of all client ledgers or billing statements for all clients whose funds were deposited into or disbursed from the trust account between February 1, 2011, and February 29, 2012; and

b. copies of Respondent's operating account statements from November 2011 through February 2012.

24. Respondent did not provide the requested documents by April 2, 2012, so on April 9, 2012, Informant's staff wrote to Respondent again. Staff advised Respondent that if she did not provide the requested documents, Informant's staff would subpoena the documents.

25. On April 12, 2012, Respondent e-mailed copies of her previously provided trust account records to Informant instead of the requested documents.

26. On April 19, 2012, Informant's staff advised Respondent, via e-mail, that she had not produced the requested documents and that it was imperative that she produce the requested documents immediately. Respondent then asked, via e-mail, to meet with Informant's staff.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

27. On April 20, 2012, Respondent met with investigator/paralegal Kelly Dillon and staff counsel Melody Nashan. During the meeting, Respondent produced client ledgers. Respondent also disclosed that:

a. she did not have an operating account for her law practice;

b. she used her trust account as an operating account;

c. she deposited both earned and unearned fees into her trust account;

d. she sometimes paid personal expenses out of her trust account; and

e. she set a maximum fee for each client which was very low and she did not keep track of hours worked. She had no written fee agreements, no set payment agreements and no billing statements.

28. At the conclusion of the meeting, Informant's staff requested that Respondent provide them with monthly statements for her personal account along with copies of items deposited into the account and copies of items charged against the account.

29. After the meeting, Respondent did enroll and participate in a trust accounting webinar put on by Informant.

30. On April 27, 2012, Informant's staff asked Respondent to provide a written explanation why she had a judgment against her from Accupay, a local payroll service, in the amount of $3,000.

31. On May 1, 2012, Informant's staff e-mailed Respondent to determine why she had not provided the requested written response regarding the Accupay Judgment.

Informant's staff also reminded Respondent that she had not produced the requested documents regarding her personal account. Informant's staff further advised that if Respondent did not produce the requested documents by May 4, 2012, Informant's staff would subpoena the documents from the bank.

32. Respondent did not produce the requested documents. On May 14, 2012, Informant's staff subpoenaed the records.

33. On May 21, 2012, and June 7, 2012, Bank of America produced the subpoenaed documents concerning Respondent's personal account.

34. On June 14, 2012, Informant's staff requested that Respondent produce, by no later than June 22, 2012, the receipt book that she used when clients paid her in cash.

35. On June 22, 2012, Respondent e-mailed Informant's staff and indicated that she was out of town but would bring the receipt book to Informant's office on June 27, 2012.

36. On July 19, 2012, Respondent provided a copy of her receipt book.

37. Respondent states that she was not intentionally ignoring requests made by Informant but because of her depression and other traumatic events occurring in her life, she was not able to respond in a timely manner.

TRUST ACCOUNT AUDIT

38. Informant's staff prepared a trust account audit spreadsheet reflecting checks, withdrawals, and deposits from Respondent's trust account. Informant's staff

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

also audited the client ledgers provided by Respondent and her receipt book and reconciled the ledgers, the receipt book and the trust account.

39. The audit revealed that:

a. Respondent did not maintain and/or provide complete and accurate trust account records to Informant.

b. Respondent's monthly ledgers were not accurate:

i. The July 2011 monthly ledger did not accurately reflect a $300 deposit on July 1.

1. The monthly ledger showed that the deposit was split with $100 from Allen Corbin and $200 from Fred Moore.

2. The deposit ticket showed that $100 was from Travis Wheeler and $100 from Jon Bryson. Respondent did not account for the remaining $100 on the deposit slip.

3. The client ledgers showed that Respondent received $50 from Allen Corbin on July 1 or 6, 2011, $100 from Jon Bryson on July 6, 2011 and $100 from Travis Wheeler on July 12, 2011. The receipt book also reflected these amounts, plus a $50 deposit for Allen Corbin on July 6, 2012.

ii. The July 2011 monthly ledger did not show a July 14, 2011, deposit into the trust account for $300.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

iii. The August monthly ledger did not accurately reflect a $200 deposit on August 24.

iv. The August monthly ledger did not accurately reflect the withdrawal of fees via check no. 1004.

1. The monthly ledger showed that check no. 1004 was for $200 and was a withdrawal of fees from Dan Hale. Check no. 1004 was actually in the amount of $1,100 and written to "cash." The check and client ledgers reflected that $900 of the $1,100 withdrawal was for client Howard (Butch) Steenburgen.

c. Respondent did not maintain accurate individual client ledgers.

i. Respondent did not have a client ledger for Tyler Walker.

1. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

2. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees-Walker."

ii. Respondent did not have a client ledger for client Vanderfeltz.

1. On October 6, 2011, Respondent made a $30 deposit into her trust account for client Vanderfeltz. The monthly ledger and

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

the deposit ticket show the deposit but there is no client ledger.

iii. Travis Deal's client ledger was not accurate.

1. The individual client ledger showed that on February 21, 2012, Respondent withdrew $250 in cash, via check no. 1140, from Mr. Deal's funds.

2. Check no. 1140 was made payable to cash and was in the amount of $250. The notation on the check stated that the check was a withdrawal of fees from client Angela Ames' funds.

3. Ms. Ames' individual ledger also reflected a withdrawal of $250 via check no. 1140.

d. Respondent did not deposit all of her client funds into her trust account.

i. Respondent did not deposit funds from Sara Poire into her trust account.

1. Both Respondent's August monthly ledger and Ms. Poire's client ledger show that Sara Poire paid Respondent $500 on August 1, 2011. There was no $500 deposit into the trust account on that date or any other nearby date.

ii. Respondent did not deposit funds from client Antonio Adams into her trust account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

1. The client ledger for Antonio Adams showed a deposit of $500 on October 17, 2011.
2. There was no deposit into the trust account on that date or any deposit for $500 around that date.

iii. Respondent paid herself out of the trust account when she had not deposited the client funds into the trust account or when her withdrawals exceeded the amount deposited into the trust account.

1. Respondent withdrew more from her trust account on behalf of client Richard Poire than she had deposited into the account.
   a. On July 1, 2011, Respondent wrote check no. 1123, in the amount of $900 to "cash." The check cleared the account on the same date.
   b. The check is recorded on Richard Poire's client ledger.
   c. At the time the check cleared, Respondent was only holding $600 of Mr. Poire's funds.
2. Respondent withdrew more from her trust account on behalf of client Tyler Walker than she had deposited into the account.
   a. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

b. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees- Walker."

3. Respondent withdrew more from her trust account on behalf of client Jason Wheeler than she had deposited into the trust account.

a. On February 25, 2012, Respondent wrote check no. 1061, payable to "cash" in the amount of $350.

b. The check number was shown on Jason Wheeler's client ledger as a withdrawal.

c. On February 25, 2012, Mr. Wheeler had only paid Respondent $260.

e. Respondent made numerous personal withdrawals from the trust account that were not reflected on the monthly or client ledgers.

i. On October 14, 2011, Respondent wrote check no. 1008 in the amount of $33.37 to International Wines.

1. There was no notation on the check and the check is not listed on the monthly or client ledgers.

ii. On October 18, 2011, Respondent wrote check no. 1037, in the amount of $106.54, to Hy-Vee grocery store.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

'W

1. The check did not have any notation written on it and was not listed on the monthly ledger or client ledgers.

iii. On October 24, 2011, Respondent made an electronic funds transfer, payable to Billpay Republic Services, in the amount of $65.50.

1. The transfer was not reflected on the monthly ledger or the client ledgers.

iv. On November 3, 2011, Respondent wrote check no. 1044, payable to American Eagle, in the amount of $47.38.

1. There is no notation on the check.
2. The check is not reflected on any of the client ledgers.

v. On December 13, 2011, Respondent wrote check no. 1051, payable to MC Sports, in the amount of $11.50.

1. There is no notation on the check.
2. The check is not reflected on any of the client ledgers.

vi. On January 17, 2012, Respondent wrote check no. 1132, payable to Shoe Carnival, in the amount of $68.93.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

1. The check is not reflected on any of the client ledgers.[2]

vii. On January 24, 2012, Respondent wrote check no. 1133, payable to Barnes & Noble, in the amount of $4.00.

1. The check is not reflected on any of the client ledgers.

viii. On February 15, 2012, Respondent wrote check no. 1137, payable to Wal-Mart, in the amount of $83.25.

1. The check is not reflected on any of the client ledgers.

ix. On February 16, 2012, Respondent made an electronic transfer, payable to Dish Network, in the amount of $268.81.

x. On February 27, 2012, Respondent made an electronic funds transfer payable to ERAC Enterprise, in the amount of $100.00.

1. The amount is not reflected on any of the client ledgers.

xi. On February 27, 2012, Respondent made an electronic funds transfer, payable to AT&T, in the amount of $115.21.

1. The transaction is not reflected on any of the client ledgers;

---

[2] The bank did not have copies of all of the checks charged against the account. Some checks were processed electronically by the merchant and returned to Respondent instead of being forwarded to the bank.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

xii. On February 27, 2012, Respondent made an electronic funds transfer, payable to the Missouri Department of Motor Vehicles, in the amount of $86.00.

1. The transaction is not reflected on any of the client ledgers.

f. Respondent wrote checks to "cash" from her trust account without notation regarding which client funds she was withdrawing and without the withdrawals being reflected on her client ledgers.

i. On December 1, 2011, Respondent wrote check no. 1048, in the amount of $50.00 to "cash."

ii. On December 8, 2011, Respondent wrote check no. 1049, in the amount of $80.00, to "cash."

iii. On December 9, 2011, Respondent wrote check no. 1050 in the amount of $160.00 to "cash."

iv. On December 16, 2011, Respondent wrote check no. 1055, in the amount of $60.00 to "cash."

v. On December 22, 2011, Respondent wrote check no. 1056 in the amount of $50 to "cash."

vi. On January 3, 2012, Respondent wrote check no. 1057 in the amount of $400 to "cash."

vii. On January 12, 2012, Respondent wrote check no. 1130 in the amount of $250 to "cash."

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

viii. On January 13, 2012, Respondent wrote check no. 1129 in the amount of $200 to "cash."

ix. On January 13, 2012, Respondent wrote check no. 1131 in the amount of $100 to "cash."

x. On February 13, 2012, Respondent wrote check no. 1136 in the amount of $150 to "cash."

xi. On February 27, 2012, Respondent wrote check no. 1062 in the amount of $550 to "cash."

g. On various dates, Respondent withdrew cash from her trust account. The withdrawals are not reflected on any of Respondent's client ledgers.

i. On December 1, 2011, Respondent withdrew $50 in cash from her trust account.

ii. On December 20, 2011, Respondent withdrew $100 in cash from her trust account.

iii. On December 30, 2011, Respondent withdrew $50 and $150 in cash from her trust account.

iv. On January 1, 2012, Respondent withdrew $40 in cash from her trust account.

v. On January 19, 2012, Respondent withdrew $40 in cash from her trust account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

vi. On January 23, 2012, Respondent withdrew $250 in cash from her trust account.

vii. On January 31, 2012, Respondent withdrew $50 in cash from her trust account.

viii. On February 6, 2012, Respondent withdrew $300 in cash from her trust account.

ix. On February 13, 2012, Respondent withdrew $200 in cash from her trust account.

x. On February 14, 2012, Respondent withdrew $300 in cash from her trust account.

xi. On February 24, 2012, Respondent withdrew $350 in cash from her trust account.

h. Respondent did not maintain or provide accurate records of cash received. Respondent's receipt book starts at July 1, 2011 and does not document much of the cash that went into the trust account.

JOINT PROPOSED CONCLUSIONS OF LAW

Informant and Respondent stipulate and agree:

1. Rule 4-1.15(c) provides that a lawyer shall keep property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. The rule further provides that client or third party funds shall be kept in a separate account designated as a "client trust account."

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

2. Respondent violated Rule 4-1.15(c) when she:

a. failed to deposit unearned fees into her trust account;

b. deposited earned funds into her trust account;

c. allowed earned funds to remain in her trust account; and

d. used the trust account as an operating account.

3. Rule 4-1.15(f) provides that an attorney shall withdraw fees from a trust account only as the fees are earned.

4. Respondent violated Rule 4-1.15(f) when she:

a. withdrew funds from the trust account in excess of the amount that a particular client had paid her; and

b. when she withdrew funds without regard as to whether the funds had been earned.

5. Rule 4-8.1(c) provides that a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

6. Respondent violated Rule 4-8.1(c) when she failed to provide requested trust account documentation to Informant in a timely manner.

AGGRAVATING AND MITIGATING FACTORS

The parties stipulate and agree that the following aggravating and mitigating factors exist:

Aggravating Factors

7. There are multiple rule violations. ABA Standard § 9.22(d).

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Mitigating Factors

8. Respondent does not have any prior disciplinary history. ABA Standard § 9.32(a).

9. Informant does not believe Respondent has a dishonest or selfish motive. ABA Standard § 9.32(a).

10. Prior to obtaining her license in Missouri in 2005, Respondent had practiced in California as a public defender and did not have experience with handling client money or trust accounts. While practicing with the Jefferson City firm, Respondent did not handle client funds or deal with the firm's trust account. Thus, Respondent had no prior experience with client funds or trust accounts. ABA Standard § 9.32(f)

11. Respondent has ongoing severe emotional problems. ABA Standard § 9.32(g).

12. Respondent is very remorseful for her actions and acknowledges that she did not handle her trust account in an appropriate manner. ABA Standard § 9.32(l).

JOINT RECOMMENDED DISCIPLINE

13. Informant and Respondent jointly recommend that the appropriate discipline is a two year actual suspension and that Respondent be assessed the fee of $1,000 for suspension prescribed in Rule 5.19(h). Informant's reasoning for recommending this level of discipline is addressed below in Informant's Suggestions In Support of the Stipulated Discipline.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

14. Informant and Respondent make this Joint Recommendation for Discipline with the understanding that it is only a recommendation and is not binding on the Advisory Committee, Disciplinary Hearing Panel, or the Supreme Court of Missouri. Both parties agree that they are waiving their right to a hearing before the Disciplinary Hearing Panel but acknowledge that the Disciplinary Hearing Panel may direct the parties to participate in some type of abbreviated hearing in addition to submitting this Stipulation. Regardless of whether the Advisory Committee, Disciplinary Hearing Panel, or the Supreme Court accepts or rejects the recommended discipline, Informant and Respondent agree to be bound by the factual stipulations contained in this Joint Stipulation of Facts, Joint Proposed Conclusions of Law, and Joint Recommended Discipline. Informant and Respondent agree and understand that the level of discipline to which the parties are stipulating concurrence is not binding on either party if the Supreme Court does not concur in the parties' stipulated discipline.

Joint Proposed Court Order

The parties agree that the Court should enter the following order:

> Now at this day, the Court being sufficiently advised of and concerning the premises and having considered the statement of acceptance of the Disciplinary Hearing Panel decision pursuant to Rule 5.19(c), the Court finds that Respondent Georgia Mathers, Missouri Bar No. 58025, violated Rules 4-1.15(c), (f) and 4-8.1(c).

In accordance with previous disciplinary decisions of this Court, the Court suspend Georgia Mathers. Fee pursuant to Rule 5.19(h) for $1,000 payable to the Clerk of this Court to the credit of the Advisory Committee Fund taxed to the Respondent. Costs taxed to the Respondent.

INFORMANT'S SUGGESTIONS IN SUPPORT OF THE STIPULATED DISCIPLINE

When determining an appropriate penalty for violations of the Rules of Professional Conduct, the Missouri Supreme Court assesses the gravity of the misconduct, as well as mitigating or aggravating factors that tend to shed light on Respondent's moral and intellectual fitness as an attorney. *In re Wiles*, 107 S.W.3d 228, 229 (Mo. banc 2003).

Since its decision in *In re Storment*, 873 S.W.2d 227 (Mo. Banc 1994), the Court has consistently turned to the ABA Standards for Imposing Lawyer Sanctions (1991) ("ABA Standards") for guidance in deciding what discipline to impose. ABA Standard § 3.0 states that a court should look at four primary factors in determining which sanction is appropriate. The factors are: (1) the duty violated; (2) the lawyer's mental state; (3) the potential or actual injury caused by the conduct; and (4) aggravating and mitigating circumstances. Injury, per the standards, includes harm to the legal system or the profession. See Definitions of ABA Standards. If there are multiple violations, the Standards provide that the sanction imposed should be, at a minimum, consistent with the

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

sanction for the most serious instance of misconduct and generally should be greater than that sanction. See Theoretical Framework of ABA Standards.

In this case, the most serious rule violation involves Respondent's mishandling of client funds and mismanagement of her trust account. ABA Standards 4.1 provides that disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client. Similarly, § 4.12 provides that a suspension is generally appropriate when a lawyer knows or should know that she is dealing improperly with client property and causes injury or potential injury to a client. Commentary to the standard goes on to state that suspension is appropriate for attorneys who commingle client funds with their own but is not appropriate when an attorney misappropriates client funds.

In the instant case, Informant believes that there were instances in which Respondent used client funds to pay personal expenses. However, Respondent's recordkeeping was so poor and Respondent's mental process was so distorted by her depression, Informant does not believe Respondent's conduct was intentional. Rather, Informant would classify Respondent's actions as "negligent misappropriation" which may deserve a lesser sanction than disbarment, especially if there are compelling mitigating factors.

Next, one must consider the aggravating and mitigating factors. There are multiple rule violations. However, there are numerous mitigating factors. Respondent does not have a prior disciplinary history. Respondent does not seem to have a dishonest

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

or selfish motive. In fact, it appears that Respondent has represented a number of clients pro bono or for very marginal fees. While Respondent has extensive experience in practicing criminal law, most of her experience came from acting as a public defender, where she did not handle client funds. Respondent only practiced with a firm for a few years before opening her solo practice. While at the law firm, client funds were handled by the managing partner. Thus, Respondent does not have prior experience in handling client funds.

Respondent is remorseful for her actions and realizes she did not handle client funds appropriately. After she met with Informant's staff, Respondent did participate in a webinar to improve her accounting practices.

Thus, Informant believes that it is appropriate for this Court to impose a two-year suspension of Respondent's license. This discipline comports with the discipline imposed by this Court in *In re Belz,* 258 S.W.3d 38, (Mo. banc 2008) (attorney suffering from bipolar disorder who "borrowed" client funds received three year suspension).

A suspension also appears appropriate when one considers Respondent's current mental health status. Respondent is severely depressed and needs additional treatment and counseling. Without the treatment and counseling, Informant does not believe Respondent is able to practice law without putting the public at risk. Requiring Respondent to wait two years before seeking reinstatement will allow her time to obtain treatment and to be able to demonstrate a meaningful and sustained period of successful rehabilitation and treatment.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Respectfully submitted,

ALAN D. PRATZEL #29141
Chief Disciplinary Counsel

Nancy L. Ripperger #40627
3335 American Avenue
Jefferson City, MO 65109
573-635-7400
573-635-2240 (fax)
Nancy.Ripperger@courts.mo.gov

COUNSEL FOR INFORMANT

Date: Jan 29, 2013

Georgia Mathers
343 Hunters Run
Jefferson City, MO 65109
(573) 821-0509

georgia_mathers@yahoo.com

RESPONDENT

Date: Jan 29, 2013

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

RECEIVED
AC/LEC
FEB 0 5 2013

IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
GEORGIA MATHERS	)	
	)	
MBE #58025	)	**CASE NO. DHP-12-033**
	)	
Respondent.	)	

DISCIPLINARY HEARING PANEL DECISION

INTRODUCTION

This matter was submitted to the hearing panel based upon a stipulation by the parties. A brief record was made. The hearing panel consists of: Edward C. Clausen, Presiding Officer, Keith W. Brunstrom, Attorney Member, and Kay Kasiske, Public Member.

Informant was represented by Nancy Ripperger, Staff Counsel.

Respondent represented herself.

The Disciplinary Hearing Panel adopts the facts, conclusions, and recommendation set forth in the stipulation, which is attached and incorporated by this reference, and recommends that Respondent be suspended indefinitely with no leave to apply for reinstatement for 2 years.

Respectfully submitted,

February 4, 2013
Date

Edward C. Clausen #34621
Presiding Officer

EXHIBIT
tabbies
C

Concur:

February 4, 2013
Date

Keith W. Brunstrom
Keith W. Brunstrom #38343
Attorney Member

02-04-13
Date

Kay Kasiske
Kay Kasiske
Public Member

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

IN THE SUPREME COURT OF MISSOURI
EN BANC

IN RE:	)	
	)	
GEORGIA MATHERS	)	
343 Hunters Run,	)	
Jefferson City, MO 65109	)	Case No. DHP-12-033
	)	
	)	
MISSOURI BAR NO. 58025	)	
DOB: [redacted]	)	
	)	
Respondent.	)	

JOINT STIPULATION OF FACTS, JOINT PROPOSED CONCLUSIONS OF LAW, JOINT RECOMMENDED DISCIPLINE, AND INFORMANT'S SUGGESTIONS IN SUPPORT OF THE RECOMMENDED DISCIPLINE

COMES NOW Informant and Respondent and stipulate to the following:

General Information

1. Informant is the Chief Disciplinary Counsel appointed by the Court pursuant to Rule 5.06.

2. Informant has determined pursuant to Rule 5.11 that probable cause exists to believe that Respondent Georgia Mathers is guilty of professional misconduct.

3. Respondent was licensed to practice law in Missouri on October 13, 2005.

4. Prior to being licensed in Missouri, Respondent was a public defender in California for many years.

EXHIBIT 1

PW

5. Respondent's Missouri Bar license is currently in good standing. However, as of the date of the drafting of this Stipulation, Respondent has not yet paid her Bar dues for 2013. Respondent plans upon taking inactive status in the near future.

6. The address Respondent most recently registered with the Missouri Bar is 343 Hunters Run, Jefferson City, MO 65109.

7. Respondent is pro se in this action.

8. Respondent has no prior disciplinary history.

9. Respondent has a general, solo practice located in Jefferson City, MO. She opened the solo practice at the beginning of 2011.

10. Respondent previously practiced as a partner in a Jefferson City firm. In 2010, her relationship with the other partners became very acrimonious and she was forced out of the firm against her will. Respondent sued the other partners and was involved in litigation with the partners throughout 2011. This was a very stressful situation for Respondent.

11. Respondent divorced her husband at the end of 2010 and is presently involved in a custody dispute with her ex-husband. The divorce and custody dispute has been very stressful for Respondent.

12. Respondent agreed to represent many of her clients for very small fees or on a pro bono basis and, as a result, has suffered severe financial problems herself.

[redacted]

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

14. Respondent has been diagnosed with severe major depressive disorder, attention-deficit-disorder, and anxiety. Respondent is receiving treatment from both a psychiatrist and a psychologist. Due to her depression and desire to move to Nevada to be close to her son, Respondent is in the process of winding down her practice in Missouri.[1]

15. Respondent does not have the funds available to hire an independent, licensed mental health professional to offer an opinion that her mental health issues caused or had a direct and substantial relationship to the professional misconduct set forth below.

16. Respondent asserts, and Informant does not dispute, that due to the severe depression and anxiety she is experiencing, Respondent is not now able to effectively practice law at this time. Respondent is hopeful with continued treatment that her condition will improve such that she would be able to return to practice in the future.

---

[1] Informant has not seen Respondent's medical records except for a summary of Respondent's last visit to her psychiatrist. The summary listed the conditions set forth above. Informant requested that Respondent provide medical releases to Informant in October 2012. Respondent did not do so. Informant has observed behavior by Respondent which is consistent with the diagnoses listed.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

TRUST ACCOUNT OVERDRAFT

17. Respondent maintained an attorney IOLTA trust account, as defined in Rule 4-1.15, at Hawthorn Bank in Jefferson City, MO. The bank assigned her trust account a number ending in 0393 ("trust account").

18. On or about February 28, 2012, Hawthorn Bank, pursuant to Missouri Supreme Court Rule 4-1.15, notified Informant that Respondent had overdrawn her trust account. The notice provided that the bank had returned check no. 1142, in the amount of $249.98, payable to the Cole County Collector on February 27, 2012, because the check would have overdrawn the account.

19. On February 29, 2012, Informant requested that Respondent provide a written response regarding the overdraft within ten days. Informant further directed Respondent to provide the following for a one-year period:

a. monthly bank statements;

b. copies of all deposited items; and

c. copies of all items presented against the account.

20. Informant extended Respondent's response date until March 19, 2012, after Respondent requested additional time.

21. On March 18, 2012, Respondent provided Informant with a written response to the complaint. She alleged that she had overdrawn the account because she had failed to record a telephone payment to Dish Network of $268.81 on February 16, 2012.

PW

22. On March 21, 2012, Respondent hand-delivered the requested trust account records to Informant's staff.

23. On March 23, 2012, Informant's staff wrote to Respondent and requested that Respondent provide Informant with the following by April 2, 2012:

a. copies of all client ledgers or billing statements for all clients whose funds were deposited into or disbursed from the trust account between February 1, 2011, and February 29, 2012; and

b. copies of Respondent's operating account statements from November 2011 through February 2012.

24. Respondent did not provide the requested documents by April 2, 2012, so on April 9, 2012, Informant's staff wrote to Respondent again. Staff advised Respondent that if she did not provide the requested documents, Informant's staff would subpoena the documents.

25. On April 12, 2012, Respondent e-mailed copies of her previously provided trust account records to Informant instead of the requested documents.

26. On April 19, 2012, Informant's staff advised Respondent, via e-mail, that she had not produced the requested documents and that it was imperative that she produce the requested documents immediately. Respondent then asked, via e-mail, to meet with Informant's staff.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

27. On April 20, 2012, Respondent met with investigator/paralegal Kelly Dillon and staff counsel Melody Nashan. During the meeting, Respondent produced client ledgers. Respondent also disclosed that:

a. she did not have an operating account for her law practice;

b. she used her trust account as an operating account;

c. she deposited both earned and unearned fees into her trust account;

d. she sometimes paid personal expenses out of her trust account; and

e. she set a maximum fee for each client which was very low and she did not keep track of hours worked. She had no written fee agreements, no set payment agreements and no billing statements.

28. At the conclusion of the meeting, Informant's staff requested that Respondent provide them with monthly statements for her personal account along with copies of items deposited into the account and copies of items charged against the account.

29. After the meeting, Respondent did enroll and participate in a trust accounting webinar put on by Informant.

30. On April 27, 2012, Informant's staff asked Respondent to provide a written explanation why she had a judgment against her from Accupay, a local payroll service, in the amount of $3,000.

31. On May 1, 2012, Informant's staff e-mailed Respondent to determine why she had not provided the requested written response regarding the Accupay Judgment.

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Informant's staff also reminded Respondent that she had not produced the requested documents regarding her personal account. Informant's staff further advised that if Respondent did not produce the requested documents by May 4, 2012, Informant's staff would subpoena the documents from the bank.

32. Respondent did not produce the requested documents. On May 14, 2012, Informant's staff subpoenaed the records.

33. On May 21, 2012, and June 7, 2012, Bank of America produced the subpoenaed documents concerning Respondent's personal account.

34. On June 14, 2012, Informant's staff requested that Respondent produce, by no later than June 22, 2012, the receipt book that she used when clients paid her in cash.

35. On June 22, 2012, Respondent e-mailed Informant's staff and indicated that she was out of town but would bring the receipt book to Informant's office on June 27, 2012.

36. On July 19, 2012, Respondent provided a copy of her receipt book.

37. Respondent states that she was not intentionally ignoring requests made by Informant but because of her depression and other traumatic events occurring in her life, she was not able to respond in a timely manner.

TRUST ACCOUNT AUDIT

38. Informant's staff prepared a trust account audit spreadsheet reflecting checks, withdrawals, and deposits from Respondent's trust account. Informant's staff

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

also audited the client ledgers provided by Respondent and her receipt book and reconciled the ledgers, the receipt book and the trust account.

39. The audit revealed that:

a. Respondent did not maintain and/or provide complete and accurate trust account records to Informant.

b. Respondent's monthly ledgers were not accurate:

i. The July 2011 monthly ledger did not accurately reflect a $300 deposit on July 1.

1. The monthly ledger showed that the deposit was split with $100 from Allen Corbin and $200 from Fred Moore.

2. The deposit ticket showed that $100 was from Travis Wheeler and $100 from Jon Bryson. Respondent did not account for the remaining $100 on the deposit slip.

3. The client ledgers showed that Respondent received $50 from Allen Corbin on July 1 or 6, 2011, $100 from Jon Bryson on July 6, 2011 and $100 from Travis Wheeler on July 12, 2011. The receipt book also reflected these amounts, plus a $50 deposit for Allen Corbin on July 6, 2012.

ii. The July 2011 monthly ledger did not show a July 14, 2011, deposit into the trust account for $300.

PW

iii. The August monthly ledger did not accurately reflect a $200 deposit on August 24.

iv. The August monthly ledger did not accurately reflect the withdrawal of fees via check no. 1004.

1. The monthly ledger showed that check no. 1004 was for $200 and was a withdrawal of fees from Dan Hale. Check no. 1004 was actually in the amount of $1,100 and written to "cash." The check and client ledgers reflected that $900 of the $1,100 withdrawal was for client Howard (Butch) Steenburgen.

c. Respondent did not maintain accurate individual client ledgers.

i. Respondent did not have a client ledger for Tyler Walker.

1. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

2. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees-Walker."

ii. Respondent did not have a client ledger for client Vanderfeltz.

1. On October 6, 2011, Respondent made a $30 deposit into her trust account for client Vanderfeltz. The monthly ledger and

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

the deposit ticket show the deposit but there is no client ledger.

iii. Travis Deal's client ledger was not accurate.

1. The individual client ledger showed that on February 21, 2012, Respondent withdrew $250 in cash, via check no. 1140, from Mr. Deal's funds.

2. Check no. 1140 was made payable to cash and was in the amount of $250. The notation on the check stated that the check was a withdrawal of fees from client Angela Ames' funds.

3. Ms. Ames' individual ledger also reflected a withdrawal of $250 via check no. 1140.

d. Respondent did not deposit all of her client funds into her trust account.

i. Respondent did not deposit funds from Sara Poire into her trust account.

1. Both Respondent's August monthly ledger and Ms. Poire's client ledger show that Sara Poire paid Respondent $500 on August 1, 2011. There was no $500 deposit into the trust account on that date or any other nearby date.

ii. Respondent did not deposit funds from client Antonio Adams into her trust account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

1. The client ledger for Antonio Adams showed a deposit of $500 on October 17, 2011.
2. There was no deposit into the trust account on that date or any deposit for $500 around that date.

iii. Respondent paid herself out of the trust account when she had not deposited the client funds into the trust account or when her withdrawals exceeded the amount deposited into the trust account.

1. Respondent withdrew more from her trust account on behalf of client Richard Poire than she had deposited into the account.
   a. On July 1, 2011, Respondent wrote check no. 1123, in the amount of $900 to "cash." The check cleared the account on the same date.
   b. The check is recorded on Richard Poire's client ledger.
   c. At the time the check cleared, Respondent was only holding $600 of Mr. Poire's funds.
2. Respondent withdrew more from her trust account on behalf of client Tyler Walker than she had deposited into the account.
   a. On July 21, 2011, Respondent deposited $750 into her trust account on behalf of client Tyler Walker.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

b. On July 21, 2011, Respondent wrote check no. 1126 in the amount of $800 to "cash" with a notation "legal fees- Walker."

3. Respondent withdrew more from her trust account on behalf of client Jason Wheeler than she had deposited into the trust account.

a. On February 25, 2012, Respondent wrote check no. 1061, payable to "cash" in the amount of $350.

b. The check number was shown on Jason Wheeler's client ledger as a withdrawal.

c. On February 25, 2012, Mr. Wheeler had only paid Respondent $260.

e. Respondent made numerous personal withdrawals from the trust account that were not reflected on the monthly or client ledgers.

i. On October 14, 2011, Respondent wrote check no. 1008 in the amount of $33.37 to International Wines.

1. There was no notation on the check and the check is not listed on the monthly or client ledgers.

ii. On October 18, 2011, Respondent wrote check no. 1037, in the amount of $106.54, to Hy-Vee grocery store.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

1. The check did not have any notation written on it and was not listed on the monthly ledger or client ledgers.

iii. On October 24, 2011, Respondent made an electronic funds transfer, payable to Billpay Republic Services, in the amount of $65.50.

1. The transfer was not reflected on the monthly ledger or the client ledgers.

iv. On November 3, 2011, Respondent wrote check no. 1044, payable to American Eagle, in the amount of $47.38.

1. There is no notation on the check.
2. The check is not reflected on any of the client ledgers.

v. On December 13, 2011, Respondent wrote check no. 1051, payable to MC Sports, in the amount of $11.50.

1. There is no notation on the check.
2. The check is not reflected on any of the client ledgers.

vi. On January 17, 2012, Respondent wrote check no. 1132, payable to Shoe Carnival, in the amount of $68.93.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

1. The check is not reflected on any of the client ledgers.[2]

vii. On January 24, 2012, Respondent wrote check no. 1133, payable to Barnes & Noble, in the amount of $4.00.

1. The check is not reflected on any of the client ledgers.

viii. On February 15, 2012, Respondent wrote check no. 1137, payable to Wal-Mart, in the amount of $83.25.

1. The check is not reflected on any of the client ledgers.

ix. On February 16, 2012, Respondent made an electronic transfer, payable to Dish Network, in the amount of $268.81.

x. On February 27, 2012, Respondent made an electronic funds transfer payable to ERAC Enterprise, in the amount of $100.00.

1. The amount is not reflected on any of the client ledgers.

xi. On February 27, 2012, Respondent made an electronic funds transfer, payable to AT&T, in the amount of $115.21.

1. The transaction is not reflected on any of the client ledgers;

---

[2] The bank did not have copies of all of the checks charged against the account. Some checks were processed electronically by the merchant and returned to Respondent instead of being forwarded to the bank.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

xii. On February 27, 2012, Respondent made an electronic funds transfer, payable to the Missouri Department of Motor Vehicles, in the amount of $86.00.

1. The transaction is not reflected on any of the client ledgers.

f. Respondent wrote checks to "cash" from her trust account without notation regarding which client funds she was withdrawing and without the withdrawals being reflected on her client ledgers.

i. On December 1, 2011, Respondent wrote check no. 1048, in the amount of $50.00 to "cash."

ii. On December 8, 2011, Respondent wrote check no. 1049, in the amount of $80.00, to "cash."

iii. On December 9, 2011, Respondent wrote check no. 1050 in the amount of $160.00 to "cash."

iv. On December 16, 2011, Respondent wrote check no. 1055, in the amount of $60.00 to "cash."

v. On December 22, 2011, Respondent wrote check no. 1056 in the amount of $50 to "cash."

vi. On January 3, 2012, Respondent wrote check no. 1057 in the amount of $400 to "cash."

vii. On January 12, 2012, Respondent wrote check no. 1130 in the amount of $250 to "cash."

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

viii. On January 13, 2012, Respondent wrote check no. 1129 in the amount of $200 to "cash."

ix. On January 13, 2012, Respondent wrote check no. 1131 in the amount of $100 to "cash."

x. On February 13, 2012, Respondent wrote check no. 1136 in the amount of $150 to "cash."

xi. On February 27, 2012, Respondent wrote check no. 1062 in the amount of $550 to "cash."

g. On various dates, Respondent withdrew cash from her trust account. The withdrawals are not reflected on any of Respondent's client ledgers.

i. On December 1, 2011, Respondent withdrew $50 in cash from her trust account.

ii. On December 20, 2011, Respondent withdrew $100 in cash from her trust account.

iii. On December 30, 2011, Respondent withdrew $50 and $150 in cash from her trust account.

iv. On January 1, 2012, Respondent withdrew $40 in cash from her trust account.

v. On January 19, 2012, Respondent withdrew $40 in cash from her trust account.

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

vi. On January 23, 2012, Respondent withdrew $250 in cash from her trust account.

vii. On January 31, 2012, Respondent withdrew $50 in cash from her trust account.

viii. On February 6, 2012, Respondent withdrew $300 in cash from her trust account.

ix. On February 13, 2012, Respondent withdrew $200 in cash from her trust account.

x. On February 14, 2012, Respondent withdrew $300 in cash from her trust account.

xi. On February 24, 2012, Respondent withdrew $350 in cash from her trust account.

h. Respondent did not maintain or provide accurate records of cash received. Respondent's receipt book starts at July 1, 2011 and does not document much of the cash that went into the trust account.

JOINT PROPOSED CONCLUSIONS OF LAW

Informant and Respondent stipulate and agree:

1. Rule 4-1.15(c) provides that a lawyer shall keep property of clients or third persons that is in a lawyer's possession separate from the lawyer's own property. The rule further provides that client or third party funds shall be kept in a separate account designated as a "client trust account."

PW

2. Respondent violated Rule 4-1.15(c) when she:

a. failed to deposit unearned fees into her trust account;

b. deposited earned funds into her trust account;

c. allowed earned funds to remain in her trust account; and

d. used the trust account as an operating account.

3. Rule 4-1.15(f) provides that an attorney shall withdraw fees from a trust account only as the fees are earned.

4. Respondent violated Rule 4-1.15(f) when she:

a. withdrew funds from the trust account in excess of the amount that a particular client had paid her; and

b. when she withdrew funds without regard as to whether the funds had been earned.

5. Rule 4-8.1(c) provides that a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

6. Respondent violated Rule 4-8.1(c) when she failed to provide requested trust account documentation to Informant in a timely manner.

AGGRAVATING AND MITIGATING FACTORS

The parties stipulate and agree that the following aggravating and mitigating factors exist:

Aggravating Factors

7. There are multiple rule violations. ABA Standard § 9.22(d).

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Mitigating Factors

8. Respondent does not have any prior disciplinary history. ABA Standard § 9.32(a).

9. Informant does not believe Respondent has a dishonest or selfish motive. ABA Standard § 9.32(a).

10. Prior to obtaining her license in Missouri in 2005, Respondent had practiced in California as a public defender and did not have experience with handling client money or trust accounts. While practicing with the Jefferson City firm, Respondent did not handle client funds or deal with the firm's trust account. Thus, Respondent had no prior experience with client funds or trust accounts. ABA Standard § 9.32(f)

11. Respondent has ongoing severe emotional problems. ABA Standard § 9.32(g).

12. Respondent is very remorseful for her actions and acknowledges that she did not handle her trust account in an appropriate manner. ABA Standard § 9.32(l).

JOINT RECOMMENDED DISCIPLINE

13. Informant and Respondent jointly recommend that the appropriate discipline is a two year actual suspension and that Respondent be assessed the fee of $1,000 for suspension prescribed in Rule 5.19(h). Informant's reasoning for recommending this level of discipline is addressed below in Informant's Suggestions In Support of the Stipulated Discipline.

PW

14. Informant and Respondent make this Joint Recommendation for Discipline with the understanding that it is only a recommendation and is not binding on the Advisory Committee, Disciplinary Hearing Panel, or the Supreme Court of Missouri. Both parties agree that they are waiving their right to a hearing before the Disciplinary Hearing Panel but acknowledge that the Disciplinary Hearing Panel may direct the parties to participate in some type of abbreviated hearing in addition to submitting this Stipulation. Regardless of whether the Advisory Committee, Disciplinary Hearing Panel, or the Supreme Court accepts or rejects the recommended discipline, Informant and Respondent agree to be bound by the factual stipulations contained in this Joint Stipulation of Facts, Joint Proposed Conclusions of Law, and Joint Recommended Discipline. Informant and Respondent agree and understand that the level of discipline to which the parties are stipulating concurrence is not binding on either party if the Supreme Court does not concur in the parties' stipulated discipline.

Joint Proposed Court Order

The parties agree that the Court should enter the following order:

> Now at this day, the Court being sufficiently advised of and concerning the premises and having considered the statement of acceptance of the Disciplinary Hearing Panel decision pursuant to Rule 5.19(c), the Court finds that Respondent Georgia Mathers, Missouri Bar No. 58025, violated Rules 4-1.15(c), (f) and 4-8.1(c).

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

In accordance with previous disciplinary decisions of this Court, the Court suspend Georgia Mathers. Fee pursuant to Rule 5.19(h) for $1,000 payable to the Clerk of this Court to the credit of the Advisory Committee Fund taxed to the Respondent. Costs taxed to the Respondent.

INFORMANT'S SUGGESTIONS IN SUPPORT OF THE STIPULATED DISCIPLINE

When determining an appropriate penalty for violations of the Rules of Professional Conduct, the Missouri Supreme Court assesses the gravity of the misconduct, as well as mitigating or aggravating factors that tend to shed light on Respondent's moral and intellectual fitness as an attorney. *In re Wiles*, 107 S.W.3d 228, 229 (Mo. banc 2003).

Since its decision in *In re Storment*, 873 S.W.2d 227 (Mo. Banc 1994), the Court has consistently turned to the ABA Standards for Imposing Lawyer Sanctions (1991) ("ABA Standards") for guidance in deciding what discipline to impose. ABA Standard § 3.0 states that a court should look at four primary factors in determining which sanction is appropriate. The factors are: (1) the duty violated; (2) the lawyer's mental state; (3) the potential or actual injury caused by the conduct; and (4) aggravating and mitigating circumstances. Injury, per the standards, includes harm to the legal system or the profession. See Definitions of ABA Standards. If there are multiple violations, the Standards provide that the sanction imposed should be, at a minimum, consistent with the

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

sanction for the most serious instance of misconduct and generally should be greater than that sanction. See Theoretical Framework of ABA Standards.

In this case, the most serious rule violation involves Respondent's mishandling of client funds and mismanagement of her trust account. ABA Standards 4.1 provides that disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client. Similarly, § 4.12 provides that a suspension is generally appropriate when a lawyer knows or should know that she is dealing improperly with client property and causes injury or potential injury to a client. Commentary to the standard goes on to state that suspension is appropriate for attorneys who commingle client funds with their own but is not appropriate when an attorney misappropriates client funds.

In the instant case, Informant believes that there were instances in which Respondent used client funds to pay personal expenses. However, Respondent's recordkeeping was so poor and Respondent's mental process was so distorted by her depression, Informant does not believe Respondent's conduct was intentional. Rather, Informant would classify Respondent's actions as "negligent misappropriation" which may deserve a lesser sanction than disbarment, especially if there are compelling mitigating factors.

Next, one must consider the aggravating and mitigating factors. There are multiple rule violations. However, there are numerous mitigating factors. Respondent does not have a prior disciplinary history. Respondent does not seem to have a dishonest

PW

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

or selfish motive. In fact, it appears that Respondent has represented a number of clients pro bono or for very marginal fees. While Respondent has extensive experience in practicing criminal law, most of her experience came from acting as a public defender, where she did not handle client funds. Respondent only practiced with a firm for a few years before opening her solo practice. While at the law firm, client funds were handled by the managing partner. Thus, Respondent does not have prior experience in handling client funds.

Respondent is remorseful for her actions and realizes she did not handle client funds appropriately. After she met with Informant's staff, Respondent did participate in a webinar to improve her accounting practices.

Thus, Informant believes that it is appropriate for this Court to impose a two-year suspension of Respondent's license. This discipline comports with the discipline imposed by this Court in *In re Belz,* 258 S.W.3d 38, (Mo. banc 2008) (attorney suffering from bipolar disorder who "borrowed" client funds received three year suspension).

A suspension also appears appropriate when one considers Respondent's current mental health status. Respondent is severely depressed and needs additional treatment and counseling. Without the treatment and counseling, Informant does not believe Respondent is able to practice law without putting the public at risk. Requiring Respondent to wait two years before seeking reinstatement will allow her time to obtain treatment and to be able to demonstrate a meaningful and sustained period of successful rehabilitation and treatment.

PW

Respectfully submitted,

ALAN D. PRATZEL #29141
Chief Disciplinary Counsel

Nancy L. Ripperger #40627
3335 American Avenue
Jefferson City, MO 65109
573-635-7400
573-635-2240 (fax)
Nancy.Ripperger@courts.mo.gov

COUNSEL FOR INFORMANT

Date: Jany 29, 2013

Georgia Mathers
343 Hunters Run
Jefferson City, MO 65109
(573) 821-0509

georgia_mathers@yahoo.com

RESPONDENT

Date: Jan 29, 2013

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

Electronically Filed - Supreme Court - April 01, 2013 - 11:22 AM CDT

OFFICE OF THE
CHIEF DISCIPLINARY COUNSEL
3335 AMERICAN AVENUE
JEFFERSON CITY, MO 65109-1079
(573) 635-7400 (573) 635-2240

SUPREME COURT OF MISSOURI

February 27, 2013

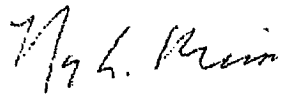
Missouri Supreme Court Advisory Committee
c/o Melinda Bentley, Legal Ethics Counsel
217 E. McCarty Street
Jefferson City, MO 65101

In re: **Georgia Mathers**
File #DHP-12-033

Dear Melinda:

Pursuant to Rule 5.19, this letter will serve as notice to the Chair of the Missouri Supreme Court Advisory Committee that Informant accepts the written decision of the Disciplinary Hearing Panel in the Georgia Mathers matter.

Sincerely,



Nancy L. Ripperger
Staff Counsel

NLR/gs

cc: Edward C. Clausen
Keith Brunstrom
Kay Kasiske
Georgia Mathers

Vernon's Annotated Missouri Rules
Supreme Court Rules
Rules Governing the Missouri Bar and the Judiciary (Refs & Annos)
Rule 4. Rules of Professional Conduct (Refs & Annos)
Scope (Refs & Annos)

Supreme Court Rules of Prof. Conduct Rule 4-1.15

4-1.15. Safekeeping Property

Currentness

<Text of rule effective until July 1, 2013. See, also, text effective July 1, 2013.>

(a) As used in this Rule 4-1.15(a) to (l), the following terms mean:

(1) "Approved institution,"

(A) an eligible institution, or

(B) a financial institution, in which a trust account of a lawyer with an exemption under Rule 4-1.15(l)(5) is held, that has been approved by the advisory committee pursuant to regulations adopted by the advisory committee and approved by this Court.

(2) "Client trust account," an account denominated as such or by words of similar import in which a lawyer or law firm holds funds on behalf of a client or third person and on which withdrawals or transfers can be made on demand, subject only to any notice period that the financial institution is required to observe by law or regulation. Every client trust account shall be either an IOLTA account or a non-IOLTA trust account.

(3) "Daily overnight financial institution repurchase agreement," an agreement established only with an institution that is deemed to be "well capitalized" or "adequately capitalized" as defined by applicable federal statutes and regulations.

(4) "Eligible institution," a bank or savings and loan association authorized by federal or state law to do business in Missouri, the deposits of which are insured by an agency of the federal government, or an open-end investment company registered with the Securities and Exchange Commission authorized by federal or state law to do business in Missouri that has voluntarily chosen to offer and maintain IOLTA accounts to its lawyer and law firm customers. To be an "eligible institution," the foundation also must determine that the institution:

(A) pays no less on IOLTA accounts than the lesser of:

(i) the highest interest rate or dividend generally available from the institution to its non-IOLTA customers for each IOLTA account that meets the same minimum balance or other eligibility qualifications, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA customers, the institution may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers if such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers and these factors do not include that the account

is an IOLTA account. The institution also shall consider all product option types for an IOLTA account offered by the financial institution to its non-IOLTA customers by either using the available account option as an IOLTA account or paying the comparable interest rate or dividend on the IOLTA checking account in lieu of actually establishing the comparable highest interest rate or dividend product; or

(ii) an amount on funds that would otherwise qualify for the investment options noted at Rule 4.1.15(a)(7)(B) to (D) equal to the greater of 60% of the federal funds target rate as of the first business day of the quarter or other IOLTA remitting period or 0.60%, which amount is deemed to be already net of allowable reasonable fees;

(B) only deducts allowable reasonable fees from the interest or dividends on an IOLTA account;

(C) remits at least quarterly the interest or dividends earned on each IOLTA account, net of allowable reasonable fees, if any, to the foundation, which shall be the sole beneficial owner of the interest or dividends earned on the IOLTA account;

(D) transmits with each remittance a report, on a form and through any manner of transmission approved by the foundation, that identifies each lawyer or law firm for whose IOLTA account the remittance is sent, the amount of the remittance attributable to each IOLTA account, the rate and type of interest or dividends applied, the amount of interest or dividends remitted, the amount and type of charges or fees deducted, if any, and the average account balance for the period in which the report is made; and

(E) transmits to the depositing lawyer a report in accordance with normal procedures for reporting to its depositors.

(5) "Financial institution," a bank or savings and loan association authorized by federal or state law to do business in Missouri, the deposits of which are insured by an agency of the federal government.

(6) "Foundation," the Missouri lawyer trust account foundation described in this Court's order of October 23, 1984.

(7) "IOLTA account," a pooled client trust account held at an eligible institution that is comprised of client and third person funds that cannot otherwise earn income for the client or third person in excess of the costs incurred to secure such income, and which is:

(A) an interest-bearing checking account;

(B) a money market account with or tied to check-writing;

(C) a sweep account which is a government money market fund or daily overnight financial institution repurchase agreement invested solely in or fully collateralized by United States government securities; or

(D) an open-end money market fund solely invested in or fully collateralized by United States government securities.

(8) "Non-IOLTA customers" includes all of the customers of the financial institution other than those who maintain IOLTA accounts.

(9) "Non-IOLTA trust account," an interest-bearing client trust account established at a financial institution as:

(A) a separate client trust account for the deposit of the funds of a particular client or third person, the net earnings of which will be paid to the client or third person who owns the deposited funds; or

(B) a pooled trust account with subaccounting by the financial institution or by the lawyer or law firm that will provide for computation of the net interest or dividend earned by the funds of each client or third person and also will provide for the payment thereof to the client or third person.

(10) "Open-end money market fund," a fund holding itself out as a money market fund as defined by applicable federal statutes and regulations under the Investment Act of 1940 and, at the time of the investment, having total assets of at least $250,000.000.

(11) "United States government securities," United States treasury obligations and obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

(b) For purposes of Rule 4-1.15(a) to (l), "allowable reasonable fees" are per check charges, per deposit charges, a fee in lieu of minimum balance, sweep fees and a reasonable IOLTA account administrative fee. Allowable reasonable fees may be deducted from interest or dividends earned on an IOLTA account, provided that such charges or fees shall be calculated in accordance with an eligible institution's standard practice for non-IOLTA customers. Fees or charges in excess of the interest or dividends earned on the IOLTA account, for any month or quarter, shall not be taken from interest or dividends of any other IOLTA account. No fees or charges may be assessed against or deducted from the principal of any IOLTA account. All other fees are the responsibility of the lawyer or law firm and may be charged to the lawyer or law firm. Eligible institutions may elect to waive any or all fees on IOLTA accounts.

(c) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Client or third party funds shall be kept in a separate account designated as a "Client Trust Account" or words of similar import maintained in the state where the lawyer's office is situated or elsewhere if the client or third person consents. Every client trust account shall be either an IOLTA account or a non-IOLTA trust account. No earnings from an IOLTA account or a non-IOLTA trust account shall be made available to any lawyer or law firm, nor shall any lawyer or law firm have a right or claim to such earnings. Other property shall be identified as such and appropriately safeguarded.

(d) Complete records of client trust accounts shall be maintained and preserved for a period of at least five years:

(1) after termination of the representation, or

(2) after the date of the last disbursement of funds,

whichever is later.

Complete records include, but are not limited to, checkbooks, cancelled checks, check stubs, vouchers, ledgers, journals, closing statements, accountings or other statements of disbursements rendered to clients or other parties with regard to trust funds or similar equivalent records clearly and expressly reflecting the date, amount, source, and explanation for all receipts, withdrawals, deliveries and disbursements of the funds or other property of a client or

other parties.

(e) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(f) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(g) A client trust account, whether IOLTA or non-IOLTA, must be in an approved institution. Every lawyer practicing or admitted to practice in this jurisdiction, as a condition thereof, shall be conclusively deemed to have consented to the overdraft reporting and production requirements mandated by the regulations adopted by the advisory committee. The advisory committee shall promulgate regulations necessary to provide for overdraft reporting on lawyer trust accounts.

(h) The advisory committee may refuse to approve a financial institution and may revoke approval as provided in the regulations approved by this Court.

(1) any financial institution that is refused approval by the advisory committee may petition this Court, within 30 days of receiving notice of the action, for review of the advisory committee's decision. This Court may direct that the issues raised in the petition be briefed and argued as though a petition for an original remedial writ has been sustained. This Court may sustain, modify, or vacate the action of the advisory committee or dismiss the petition.

(2) any lawyer or law firm receiving notification from a financial institution that the institution's approval as a trust account depository has been revoked or that the financial institution is canceling its agreement shall remove all trust accounts from the financial institution within 30 days of receipt of such notice or by such later date as is required for the payment of all outstanding items payable from the trust account. Within the same time, written notice of compliance with this Rule 4-1.15(h)(2) shall be sent to the chief disciplinary counsel. The notice shall include the name and address of the new trust account depository institution.

(i) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as provided in this Rule 4-1.15 or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(j) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the lawyer shall keep the property separate until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(k) Unless exempt as provided in Rule 4-1.15(l), a lawyer or law firm shall establish and maintain one or more IOLTA accounts into which shall be deposited all funds of clients or third persons, but only in compliance with the following provisions:

(1) no earnings from such account shall be made available to the lawyer or law firm, and the lawyer or law firm shall have no right or claim to such earnings;

(2) a lawyer or law firm shall deposit in an IOLTA account all funds of clients and third persons from which no income could be earned for the client or third person in excess of the costs incurred to secure such income, and all other client or third person funds shall be deposited into a non-IOLTA trust account;

(3) in determining whether client or third person funds should be deposited in an IOLTA account or non-IOLTA trust account, a lawyer shall take into consideration the following factors:

(A) the amount of interest that the funds would earn during the period they are expected to be deposited;

(B) the cost of establishing and administering a non-IOLTA trust account for the benefit of the client or third person, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to the benefit of a client or third person;

(C) the capability of financial institutions or lawyers or law firms to calculate and pay interest to individual clients or third persons;

(D) any other circumstance that affects the ability of the client or third person funds to earn income, in excess of the costs incurred to secure such income, for the client or third person;

(4) the determination of whether the funds of a client or third person can earn income in excess of costs as provided in Rule 4-1.15(k)(3) shall rest in the sound judgment of the lawyer or law firm, and no lawyer shall be charged with an ethical impropriety or breach of professional conduct based on the good faith exercise of such judgment;

(5) the lawyer or law firm shall review the account at reasonable intervals to determine if changed circumstances require further action with respect to the funds of any client or third person; and

(6) a lawyer or law firm required to establish and maintain an IOLTA account under this Rule 4-1.15 shall maintain IOLTA accounts only at an eligible institution that voluntarily chooses to offer such accounts. The foundation shall annually publish a list of eligible institutions, shall update the list seasonably, and shall provide a copy of the updated list to any Missouri lawyer upon written request. The foundation shall promptly notify the advisory committee and the chief disciplinary counsel when it removes a financial institution from the list.

(l) Every lawyer shall certify in connection with this Court's annual enrollment statement the financial institutions in which the lawyer has one or more trust accounts and that the lawyer or the law firm with which the lawyer is associated either maintains an IOLTA account with an eligible institution as provided in Rule 4-1.15(k) or is exempt because the:

(1) lawyer is not engaged in the practice of law;

(2) nature of the lawyer's or law firm's practice is such that the lawyer or law firm does not hold client or third party funds;

(3) lawyer is primarily engaged in the practice of law in another jurisdiction and not regularly engaged in the practice of law in this state;

(4) lawyer is associated in a law firm with at least one lawyer who is admitted to practice and maintains an office in a jurisdiction other than the state of Missouri and the lawyer or law firm maintains a pooled trust account for the deposit of funds of clients or third persons in a financial institution located in such other jurisdiction outside the state of Missouri and any interest or dividends, net of any service charges and fees, from the account is being remitted to the client or third person who owns the funds or to a nonprofit organization or government agency pursuant to the laws or rules governing lawyer conduct of the jurisdiction in which the financial institution is located; or

(5) foundation, for the current reporting period, has exempted the lawyer or law firm from the requirement of maintaining an IOLTA account and depositing client and third person funds therein because a lawyer or law firm:

(A) maintains an IOLTA account that has not and cannot reasonably be expected to produce interest or dividends in excess of allowable reasonable fees; or

(B) establishes that no eligible institution within reasonable proximity to his, her or its office offers IOLTA accounts.

The foundation may establish criteria and procedures by which an exemption under this Rule 4-1.15(l)(5) may be obtained.

The trust accounts of lawyers or law firms exempt under this Rule 4-1.15(l)(5) shall be non-interest-bearing, except that such accounts shall be interest-bearing if funds held for particular clients or matters warrant one or more non-IOLTA accounts under Rule 4-1.15(k)(3).

(m) A lawyer shall securely store a client's file for 10 years after completion or termination of the representation absent other arrangements between the lawyer and client. If the client does not request the file within 10 years after completion or termination of the representation, the file shall be deemed abandoned by the client and may be destroyed.

A lawyer shall not destroy a file pursuant to this Rule 4-1.15(m) if the lawyer knows or reasonably should know that:

(1) a legal malpractice claim is pending related to the representation;

(2) a criminal or other governmental investigation is pending related to the representation;

(3) a complaint is pending under Rule 5 related to the representation; or

(4) other litigation is pending related to the representation.

Items in the file with intrinsic value shall never be destroyed.

A lawyer destroying a file pursuant to this Rule 4-1.15(m) shall securely store items of intrinsic value or deliver such items to the state unclaimed property agency. The file shall be destroyed in a manner that preserves client confidentiality.

A lawyer's obligation to maintain trust account records as required by Rule 4-1.15(a) to (l) is not affected by this Rule 4-1.15(m).

Credits
(Adopted Aug. 7, 1985, eff. Jan. 1, 1986. Amended March 9, 1990, eff. July 1, 1990; March 3, 1994, eff. July 1, 1994; Nov. 4, 1999, eff. Nov. 4, 1999; May 27, 1999, eff. Jan. 1, 2000; Aug. 24, 2004, eff. Jan. 1, 2005; March 1, 2007, eff. July 1, 2007; Aug. 21, 2007, eff. Jan. 1, 2008; eff. Jan. 6, 2009; Oct. 8, 2009, eff. Jan. 1, 2010; Oct. 29, eff. Jan. 1, 2010.)

OVERDRAFT REPORTING

Advisory Committee Regulation

(a) The advisory committee shall only approve a financial institution that files with the advisory committee an agreement in a form provided by the advisory committee.

(b) The financial institution shall agree:

(1) To report to the chief disciplinary counsel whenever any properly payable instrument or other debit is presented against a lawyer's client trust account containing insufficient funds, irrespective of whether or not the instrument or debit is honored;

(2) To cooperate with the chief disciplinary counsel's investigation related to a report;

(3) To maintain a copy of all records related to a report for a period of five years. Any such agreement shall apply to all branches of the financial institution and shall not be cancelled except upon 30 days notice in writing to the advisory committee. If a bank or branch changes ownership, the new owner must seek approval from the advisory committee or provide notice of cancellation within 30 days, unless the new owner is a financial institution that is already approved;

(4) To make all reports within five days after the financial institution knows of the overdraft, in the following format:

(A) In the case of a dishonored instrument or debit, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and should include a copy of any dishonored instrument, if such a copy is normally provided to depositors;

(B) In the case of instruments or debits that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the lawyer or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby.

(c) The advisory committee shall annually publish a list of approved financial institutions, shall update the list seasonably, and shall provide a copy of the updated list to any Missouri lawyer upon written request. The advisory committee shall promptly publish notification of revocation of the approval of a financial institution and shall promptly notify the foundation.

(d) The report of an overdraft to the chief disciplinary counsel does not automatically result in disciplinary action. The lawyer shall be given an opportunity to explain the report, including providing evidence that the report resulted from an error by the financial institution.

(e) Nothing herein shall preclude a financial institution from charging a particular lawyer or law firm for the reasonable cost of producing the reports and records required by this rule. No charges or fees related to an overdraft shall be removed from funds to be remitted to the foundation.

(f) Approval of a financial institution shall be revoked and the financial institution removed from the list of approved financial institutions if it is found to have engaged in a pattern of neglect or to have acted in bad faith in noncompliance with its obligations under the written agreement.

(1) The chief disciplinary counsel shall communicate any decision to seek revocation of approval to the financial institution in writing by certified mail at the address given on the agreement. The revocation notice shall state the specific reasons for which revocation is sought and advise of any right to reconsideration. The financial institution shall have 15 days from the date of receipt of the written notice to file a written request with the chief disciplinary counsel seeking reconsideration of the chief disciplinary counsel's decision. Failure of the financial institution to timely seek reconsideration, in writing, after receipt of notification is acceptance of revocation.

(2) If, after reconsideration, the chief disciplinary counsel notifies the financial institution of the intent to seek revocation, the financial institution shall accept or reject the revocation, in writing, within 15 days of the receipt of the notice. Failure of the financial institution to timely reject revocation, in writing, is acceptance of revocation. If revocation is rejected, the chief disciplinary counsel shall prepare an information. The procedures shall be the same as those set forth in Rule 5 for a disciplinary hearing on a lawyer. The approved status of the financial institution shall continue until such time as this process is final.

(3) Once revocation of the approval of the financial institution is final, the institution shall not thereafter be approved as a depository for attorney trust accounts until such time as the financial institution petitions the advisory committee for new approval, including in the petition a plan for curing any deficiencies that resulted in the prior revocation and for periodically reporting compliance with the plan in the future.

(g) Within 15 days of the date revocation becomes effective or of notification that the financial institution is canceling the agreement, a financial institution shall give written notification of the revocation action to all holders of lawyer trust accounts on deposit with the financial institution, and file a report with the chief disciplinary counsel of such notification contacts within 30 days.

(h) Any lawyer or law firm receiving notification from a financial institution that the institution's approval as a trust account depository has been revoked or that the financial institution is canceling its agreement shall remove all trust accounts from the financial institution within 30 days of receipt of such notice or by such later date as is required for the payment of all outstanding items payable from the trust account, and shall send written notice of compliance to the chief disciplinary counsel, including the name and address of the new trust account depository institution.

Editors' Notes

COMMENT

2012 Electronic Update

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property that is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more trust accounts. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. *See, e.g., ABA Model Financial Recordkeeping Rule.*

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, Rule 4-1.15(e) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds is the lawyer's.

[3] Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account, and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed.

[4] Rule 4-1.15(j) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer's custody, such as a client's creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this Rule 4-1.15 are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this Rule 4-1.15.

[6] A lawyers' fund for client protection provides a means through the collective efforts of the bar to reimburse persons who have lost money or property as a result of dishonest conduct of a lawyer. Where such a fund has been established, a lawyer must participate where it is mandatory, and, even when it is voluntary, the lawyer should participate.

SUPPLEMENTAL MISSOURI COMMENT

2012 Electronic Update

In 2007, Rule 4-1.15 was amended to require lawyers to maintain IOLTA accounts if not exempted by Rule 4-1.15(l). It is expected that a lawyer or law firm will exercise good faith judgment in determining whether funds of a client or third party are of such a nominal amount or are expected to be held by the lawyer for such a short period of time that the funds cannot earn interest or dividend income for the client or third party in excess of the costs incurred to secure such income. All relevant factors should be considered in this determination, including, for example, the cost of establishing and maintaining accounts for the benefit of clients or third persons, service charges, accounting fees and tax reporting procedures, the nature of the transactions involved and the likelihood of delay. It is also expected that placement of the funds will be reviewed at reasonable intervals if the funds remain on hand to determine if changed circumstances require further action with respect to such funds. The amended Rule 4-1.15 conforms with the decision in *Brown v. Legal Foundation of Washington*, 538 U.S. 216 (2003).

Amended Rule 4-1.15 also requires that IOLTA funds be deposited with institutions paying interest and dividends comparable to rates paid to the institution's own other similarly-situated non-IOLTA customer. This recognizes that additional options have developed and are being offered in the marketplace by financial institutions from which qualifying IOLTA balances should also benefit. Apart from the important goal of fairness in the treatment of IOLTA funds, the comparability and other modifications in amended Rule 4-1.15 are important to the purposes of the IOLTA program: providing a source of funds to support civil legal services to the poor, improve the administration of justice, and promote other programs for the benefit of the public as are specifically approved from time to time by this Court.

Notes of Decisions (42)

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

Supreme Court Rules of Prof. Conduct Rule 4-8.1

4-8.1. Bar Admission and Disciplinary Matters

Currentness

An applicant for admission to the bar or a lawyer in connection with a bar admission application or in connection with a disciplinary matter shall not:

(a) knowingly make a false statement of material fact; or

(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter; or

(c) knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority,

except that this Rule 4-8.1 does not require disclosure of information otherwise protected by Rule 4-1.6.

Credits
(Adopted Aug. 7, 1985, eff. Jan. 1, 1986. Amended March 1, 2007, eff. July 1, 2007.)

Editors' Notes

COMMENT

2012 Electronic Update
[1] The duty imposed by this Rule 4-8.1 extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule 4-8.1 applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Rule 4-8.1(b) also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.

[2] Rule 4-8.1 is subject to the provisions of the fifth amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with Rule 4-8.1.

[3] A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including Rule 4-1.6 and, in some cases, Rule 4-3.3.

Notes of Decisions (6)

V.A.M.R., Rules of Prof. Conduct Rule 4-8.1, MO R BAR Rule 4-8.1
Current with amendments received through 3/15/13

End of Document

© 2013 Thomson Reuters. No claim to original U.S. Government Works.

DECLARATION OF SERVICE

by

U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): **13-J-13336**

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

☐ **By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))**

☒ **By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))**

- in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County
- of Los Angeles.

☐ **By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))**

- I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for overnight delivery by the United Parcel Service ('UPS').

☐ **By Fax Transmission: (CCP §§ 1013(e) and 1013(f))**

Based on agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed herein below. No error was reported by the fax machine that I used. The original record of the fax transmission is retained on file and available upon request.

☐ **By Electronic Service: (CCP § 1010.6)**

Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the person(s) at the electronic addresses listed herein below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ *(for U.S. First-Class Mail)* in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: *(see below)*

☒ *(for Certified Mail)* in a sealed envelope placed for collection and mailing as **certified mail, return receipt requested**,
Article No.: 7196 9008 9111 6410 8115 at Los Angeles, addressed to: *(see below)*

☐ *(for Overnight Delivery)* together with a copy of this declaration, in an envelope, or package designated by UPS,
Tracking No.: addressed to: *(see below)*

Person Served	Business-Residential Address	Fax Number	Courtesy Copy to:
GEORGIA ANN MATHERS	343 Hunters Run Jefferson City, MO 65109	Electronic Address	

☐ **via inter-office mail regularly processed and maintained by the State Bar of California addressed to:**

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ('UPS'). In the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day, and for overnight delivery, deposited with delivery fees paid or provided for, with UPS that same day.

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: April 14, 2014

SIGNED: Charles C. Bagai
Charles C. Bagai
Declarant