

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

**IN THE MATTER OF
CHARLES GREGORY PHILLIPS**

**VSB DOCKET NOS. 23-080-127641
23-000-128929**

**AGREED DISPOSITION MEMORANDUM ORDER
SUSPENSION**

On Wednesday, May 17, 2023 this matter was heard, telephonically, by the Virginia State Bar Disciplinary Board upon the joint request of the parties for the Board to accept the Agreed Disposition signed by the parties and offered to the Board as provided by Part 6, Section IV, Paragraph 13-6.H of the Rules of the Supreme Court of Virginia. The panel consisted of Carolyn V. Grady, Chair Designate, Robin J. Kegley, Bretta M. Z. Lewis, Joseph D. Platania and Tammy D. Stephenson, Lay Member. The Virginia State Bar was represented by Paulo E. Franco, Jr., Assistant Bar Counsel. Charles Gregory Phillips was present and was not represented by counsel. The Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias which would preclude any of them from fairly hearing the matter to which each member responded in the negative. Court Reporter Lisa Wright, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, telephone (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

WHEREFORE, upon consideration of the Agreed Disposition, the Certification, and Respondent's Disciplinary Record, the arguments of the parties, and after due deliberation,

It is **ORDERED** that the Disciplinary Board accepts the Agreed Disposition, as Amended, and the Respondent shall receive Suspension of One Year with Terms in VSB Docket No. 23-080-127641, and a Suspension of Five Years, to run concurrently in VSB Docket No. 23-000-128929, as set forth in the Amended Agreed Disposition, which is attached and incorporated in this Memorandum Order.

It is further **ORDERED** that the sanction is effective June 22, 2023.

It is further **ORDERED** that:

The Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail of the Suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing Attorneys and presiding Judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his clients. The Respondent shall give such notice immediately and in no event later than 7 days from May 17, 2023, per the terms of the Amended Agreed Disposition, and make such arrangements as are required per the Amended Agreed Disposition, as soon as is practicable and in no event later than the effective date of the Suspension, June 22, 2023. The Respondent shall also furnish proof as required by the Amended Agreed Disposition to the Clerk of the Disciplinary System of the Virginia State Bar within 60 days of May 17, 2023, that such notices have been timely given and such arrangements have been made for the disposition of matters.

It is further **ORDERED** that if the Respondent is not handling any client matters on the effective date of the Suspension, he shall submit an affidavit to that effect within 60 days of the effective date of the Suspension, of the Suspension to the Clerk of the Disciplinary System at the Virginia State Bar. The Board shall decide all issues concerning the adequacy of the notice and arrangements required herein. The burden of proof shall be on the Respondent to show compliance. If the Respondent fails to show compliance, the Board may impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of subparagraph 13-29.

The Clerk of the Disciplinary System shall assess costs pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules.

It is further **ORDERED** that an attested copy of this Order be mailed to the Respondent by electronic, first-class and certified mail, return receipt requested, at his last address of record

with the Virginia State Bar at , and a copy by electronic mail to Paulo E. Franco, Jr., Assistant Bar Counsel.

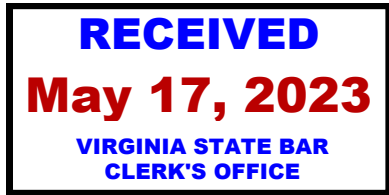
ENTER THIS ORDER THIS 17th DAY OF MAY 2023

VIRGINIA STATE BAR DISCIPLINARY BOARD

**Carolyn V.
Grady**

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Carolyn V. Grady
Chair Designate



VIRGINIA :

**BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR**

**IN THE MATTERS OF
CHARLES GREGORY PHILLIPS**

**VSB Docket No. 23-080-127641
and 23-000-128929**

**AMENDED AGREED DISPOSITION
(SUSPENSION WITH TERMS)**

Pursuant to the Rules of the Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-6.H, the Virginia State Bar, by Paulo E. Franco, Jr., Assistant Bar Counsel and Charles Gregory Phillips, Respondent, hereby enter into the following Agreed Disposition arising out of the above referenced matters.

I. STIPULATIONS OF FACT

1. Respondent was admitted to the Virginia State Bar (“VSB”) in 1991. At all relevant times, Respondent was a member of the VSB.
2. From April of 2019 through March of 2022, Respondent practiced law at the Stanley Law Group.
3. In March of 2022, Respondent separated from the Stanley Law Group, and he formed GP Law Professional LLC as a solo practitioner.
4. Respondent established a trust account ending in 0301 at American National Bank and Trust Company as part of his solo practice.
5. Pursuant to the Agreed Disposition for a Suspension With Terms issued by a Three Judge Panel of the Circuit Court for the City of Roanoke on March 5, 2018 in the Matters of Charles Gregory Phillips, Case No. CL17001629-00, (VSB Docket Nos. 16-080-105744; 16-080-105771; 17-080-105457; 17-080-108275; and 17-080-108549), the VSB conducted a review of Respondent’s trust account in July 2022 and again in November 2022. As a result of those reviews and other investigative efforts, the VSB determined that Respondent was not keeping his trust account in accordance with Rule 1.15 of the Virginia Rules of Professional Conduct.
6. In July and November 2022, the VSB Investigator could not perform a random three-way reconciliation of Respondent’s trust account because Respondent did not maintain the records required by Rule 1.15.
7. By way of example and not limitation, the journal-ledger information Respondent prepared and maintained was at times incomplete and/or incorrect.

8. In July 2022, Respondent told the VSB Investigator that transactional fees from credit card payments were deducted before depositing those fees in his trust account.

9. The VSB Investigator, however, found instances where Respondent did not take credit card processing fees into consideration, and subsequent disbursements exceeding the net payment amounts resulted in his trust account being out of balance.

10. By way of example and not limitation, Respondent received \$3,000.00 on March 17, 2022, for representation of client L.S.

11. The journal-ledger entry for client L.S. showed an actual amount credited of \$2,894.85, which was the starting balance after credit processing fees were deducted.

12. On July 25, 2022, Respondent disbursed \$1,500.00 to himself for work performed on behalf of L.S.

13. On August 29, 2022, Respondent disbursed \$1,500.00 to himself for work performed on behalf of L.S.

14. By paying himself \$3,000.00 instead of the net funds minus credit card fees, Respondent used another client's funds to make up the \$105.15 credit card fee difference.

15. The VSB Investigator verified the disbursements related to L.S. through annotated trust account bank statements that Respondent provided.

16. None of the journal-ledger information Respondent provided to the VSB Investigator during the November 2022 review had trust account balances, and only some of the information contained client balances, which were sometimes incorrect.

17. None of the journal-ledger information Respondent provided to the VSB Investigator during the November review indicated who the payees were when Respondent made disbursements.

18. None of the journal-ledger information Respondent provided to the VSB Investigator during the November review indicated how clients' fees were paid or who the payors were. During the interview in November, Respondent was often unable to tell the VSB Investigator how clients' fees were paid or who the payors were by reviewing the journal-ledger information that Respondent produced during the second trust account review.

19. During the November review, Respondent could not identify the dates of certain payments or disbursements, nor could he identify the amounts of certain disbursements.

20. During the November review, Respondent admitted he did not timely withdraw his earned fees from his trust account. The VSB Investigator found examples of such earned fees not being properly withdrawn during his review of Respondent's trust account records.

II. NATURE OF MISCONDUCT

Such conduct by Respondent constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

By failing to timely withdraw earned fees from his trust account and co-mingling them with client funds, Respondent violated Rule 1.15 (a)(3) as set forth below.

RULE 1.15 Safekeeping Property (Effective March 2020)

(a) Depositing Funds.

* * *

(3) No funds belonging to the lawyer or law firm shall be deposited or maintained therein except as follows:

(i) funds reasonably sufficient to pay service or other charges or fees imposed by the financial institution or to maintain a required minimum balance to avoid the imposition of service fees, provided the funds deposited are no more than necessary to do so; or

(ii) funds in which two or more persons (one of whom may be the lawyer) claim an interest shall be held in the trust account until the dispute is resolved and there is an accounting and severance of their interests. Any portion finally determined to belong to the lawyer or law firm shall be withdrawn promptly from the trust account.

* * *

By failing to maintain accurate journal-ledgers specific to clients, by failing to properly account for credit card processing fees, and by failing to properly annotate payments on behalf of and to clients, Respondent violated Rule 1.15 (b)(3) as set forth below.

(b) Specific Duties. A lawyer shall:

(3) maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to the client regarding them;

* * *

By failing to properly account for credit card processing fees, and by paying himself more than he received from clients (less the processing fees), Respondent violated Rule 1.15 (b)(5) as set forth below.

(5) not disburse funds or use property of a client or of a third party with a valid lien or assignment without their consent or convert funds or property of a client or third party, except as directed by a tribunal.

* * * *

By failing to keep proper and accurate receipts and disbursement journals, accurate client ledgers and accurate summaries of all receipts and disbursements, Respondent violated Rule 1.15 (c) as set forth below.

(c) Record-Keeping Requirements. A lawyer shall, at a minimum, maintain the following books and records demonstrating compliance with this Rule:

(1) Receipts and disbursements journals for each trust account. These journals shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; manner in which the funds were received, disbursed, or transferred; and current balance. A checkbook or transaction register may be used in lieu of separate receipts and disbursements journals as long as the above information is included.

(2) A client ledger with a separate record for each client, other person, or entity from whom money has been received in trust. Each entry shall include, at a minimum: identification of the client or matter; date and amount of the transaction; name of the payor or payee; source of funds received or purpose of the disbursement; and current balance.

(3) In the case of funds or property held by a lawyer as a fiduciary, the required books and records shall include an annual summary of all receipts and disbursements and changes in assets comparable in detail to an accounting that would be required of a court supervised fiduciary in the same or similar capacity; including all source documents sufficient to substantiate the annual summary.

(4) All records subject to this Rule shall be preserved for at least five calendar years after termination of the representation or fiduciary responsibility.

* * * *

By failing to keep adequate and correct information regarding his trust account to allow for three-way reconciliations, and by failing to perform the three-way reconciliations, Respondent violated Rule 1.15 (d)(2-4) as follows.

(d) Required Trust Accounting Procedures. In addition to the requirements set forth in Rule 1.15 (a) through (c), the following minimum trust accounting procedures are applicable to all trust accounts.

* * *

(2) Deposits. All trust funds received shall be deposited intact. Mixed trust and non-trust funds shall be deposited intact into the trust fund and the non-trust portion shall be withdrawn upon the clearing of the mixed fund deposit instrument. All such deposits should include a detailed deposit slip or record that sufficiently identifies each item.

(3) The following reconciliations must be made monthly and approved by a lawyer in the law firm:

(i) reconciliation of the client ledger balance for each client, other person, or entity on whose behalf money is held in trust;

(ii) reconciliation of the trust account balance, adjusting the ending bank statement balance by adding any deposits not shown on the statement and subtracting any checks or disbursements not shown on the statement. This adjusted balance must equal the balance in the checkbook or transaction register; and

(iii) reconciliation of the trust account balance ((d)(3)(ii)) and the client ledger balance ((d)(3)(i)). The trust account balance must equal the client ledger balance.

(4) The purpose of all receipts and disbursements of trust funds reported in the trust journals and ledgers shall be fully explained and supported by adequate records.

* * * *

III. PROPOSED DISPOSITION

Accordingly, bar counsel and Respondent tender to the Disciplinary Board for its approval the agreed disposition of **SUSPENSION WITH TERMS** of Respondent's license to practice law for a period of **ONE YEAR** in VSB Docket No. 23-080-127641, as representing an appropriate sanction if this matter were to be heard through an evidentiary hearing by a panel of the Disciplinary Board, and a **SUSPENSION** of Respondent's license to practice law for a period of **FIVE YEARS** in VSB Docket No. 23-000-128929. Respondent and the VSB stipulate that this disposition constitutes two separate sanctions and that the periods of suspension in each case shall run concurrently. The **TERMS**, as suggested by a panel of the Virginia State Bar Disciplinary Board and agreed to by the parties during a telephonic conference held on May 16, 2023 are as follows:

1. The effective date of Respondent's Suspension in VSB Docket No. 23-080-127641 and VSB Docket No. 23-000-128929 is June 22, 2023 to allow Respondent time to wind down his practice with minimal impact on existing criminal clients whose cases are scheduled for trial before June 22 and are currently in custody.
2. Beginning on May 16, 2023, Respondent shall not accept any new clients, retained, appointed or otherwise.
3. On or before May 19, 2023, Respondent shall provide the Office of Bar Counsel with a list of his current clients with active matters pending, including the court in which such matters are pending and the opposing counsel in all such matters.
4. On or before May 24, 2023, Respondent shall provide notice, in writing, of his suspension to all clients and to all opposing counsel and presiding judges in pending litigation. Respondent shall provide the Office of Bar Counsel with copies of all such notices by the close of business on May 26, 2023.
5. For any civil clients and any criminal clients who are not currently in custody, Respondent shall file motions for leave to withdraw from such cases on or before May 24, 2023. Respondent shall provide the Office of Bar Counsel with copies of all such motions by the close of business on May 26, 2023.

If any of the terms and conditions are not met by the deadlines imposed above,

Respondent agrees that the Disciplinary Board must impose an alternative disposition of revocation of Respondent's license to practice law in Virginia pursuant to Part Six, § IV, ¶ 13-18.O of the Rules of Supreme Court of Virginia.

Respondent stipulates that upon entry of a Memorandum Order approving this Agreed Disposition, Respondent shall be deemed to have violated the Terms of a Suspension with Terms issued by a Three Judge Panel of the Circuit Court for the City of Roanoke on March 5, 2018 in the Matters of Charles Gregory Phillips, Case No. CL17001629-00, VSB Docket Nos. 16-080-105744; 16-080-105771; 17-080-105457; 17-080-108275; and 17-080-108549 (Ex. A). Respondent concedes that the Misconduct stipulated in this Agreed Disposition violates a term of the Roanoke Circuit Court's March 5, 2018 Order, which prohibited Respondent from violating Rule 1.15 of the Rules of Professional Conduct from March 5, 2018 through March 5, 2023 ("Term"). Respondent further agrees that a five-year suspension of his license to practice law in

Virginia should be imposed for violation of this Term. Pursuant to the terms of the Court's March 5, 2018 Order, the suspensions in these cases shall run concurrently.

Respondent understands that upon entry of any Memorandum Order approving this Agreed Disposition, and absent this agreement, Assistant Bar Counsel would be required to serve notice requiring Respondent to show cause why he has not violated the terms of the March 5, 2018 and why the alternative sanction of a five-year suspension for violating the Term should not be imposed. Because Respondent agrees that he violated the Term and because this Agreed Disposition imposes the alternative sanction, Respondent waives the show cause proceeding.

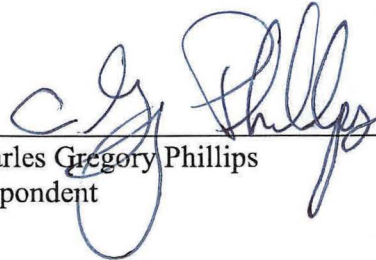
Prior to having his license reinstated in Virginia, Respondent must comply with the requirements set forth in the Rules of Supreme Court of Virginia, Part 6, Section IV, Paragraph 13-25.D.

If the Agreed Disposition is approved, the Clerk of the Disciplinary System shall assess costs pursuant to ¶ 13-9.E of the Rules.

THE VIRGINIA STATE BAR



By: _____
Paulo E. Franco, Jr.
Assistant Bar Counsel



Charles Gregory Phillips
Respondent