

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: OLITA MAGEE DOMINGUE

NUMBER: 14-DB-002 c/w 14-DB-027

RECOMMENDATION TO THE LOUISIANA SUPREME COURT



INTRODUCTION

This disciplinary proceeding is based upon the filing of two sets of formal charges by the Office of Disciplinary Counsel (“ODC”) against Olita Magee Domingue (“Respondent”), Louisiana Bar Roll Number 29620. The first set of charges (14-DB-002) consists of two counts both alleging violations of Rules of Professional Conduct Rule 1.15 (safekeeping of property). The Hearing Committee assigned to this matter concluded that Respondent violated the Rules as charged and recommended a public reprimand. The Committee also recommended that Respondent attend the Ethics School administered by the Louisiana State Bar Association, and that she attend eight hours of CLE specifically dedicated to law office management or trust accounting.

The second set of formal charges (14-DB-027) consists of three counts, alleging violations of Rules 1.15 and 1.16 (failure to deposit funds in trust account, failure to account, failure to return unearned fees); Rule 8.4(a) (violating the Rules of Professional Conduct); Rule 8.4(c) (engaging in dishonest and/or deceitful conduct); Rule 8.4(d) (engaging in conduct prejudicial to the administration of justice); and Rule 8.1(c) (failure to cooperate with ODC’s investigation).¹ The Hearing Committee assigned to this matter concluded that Respondent violated the Rules as charged and recommended a suspension from the practice of law for one

¹ The text of the Rules is contained in the attached Appendix.

year and one day. The Committee also recommended that Respondent make full restitution plus interest to her client, Ms. Cormier, and return her file.

Respondent allowed both sets of formal charges to become and remain deemed admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).² For the following reasons, the Board adopts the factual findings and legal conclusions of the Hearing Committees. With regard to the appropriate sanction, the Board recommends that Respondent be suspended from the practice of law for one year and one day with six months deferred, subject to one year of probation. The Board also recommends that Ms. Domingue be required to attend the trust accounting school administered by the Louisiana State Bar Association. Finally, the Board recommends that Ms. Domingue either resolve the fee dispute directly with her client, Ms. Cormier, or arbitrate the fee dispute with Ms. Cormier through the Bar's Fee Arbitration program.

PROCEDURAL HISTORY

I. 14-DB-002

ODC filed formal charges against Respondent on January 14, 2014. By letter dated January 16, 2014, the formal charges were sent to Respondent's primary registration address via

² This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

certified mail.³ The charges were received and signed for on January 21, 2014, by “Karen Broussard.” Respondent failed to file an answer to the charges within the time period allowed by Louisiana Supreme Court Rules XIX, §11(E)(3). Accordingly, ODC filed a motion to have the formal charges deemed admitted on February 24, 2014. The Hearing Committee Chair signed an order declaring the formal charges deemed admitted and proven by clear and convincing evidence on March 12, 2014. Respondent was granted twenty days in which to file a motion to recall the order, which she failed to do. ODC filed its written argument on sanctions, with supporting exhibits, on May 6, 2014. Hearing Committee No. 44 issued its report on June 24, 2014, recommending a public reprimand.⁴ On June 27, 2014, ODC filed an objection to the report, objecting to the leniency of sanction recommendation.

The formal charges in 14-DB-002 state in pertinent part:

I. *Matter No. 0026909 - Trust Account Overdraft*

In June of 2010, Respondent’s client trust account, housed at Chase Bank, experienced overdrafts on June 7, June 10, June 11, and June 23.

Respondent appeared for her sworn statement on March 30, 2011 and testified that she was only aware of one overdraft to the account. She also acknowledged that she deposited all funds from clients into her client trust account, including those representing flat fees and earned fees.

The facts surrounding the series of overdrafts began on June 2, 2010. On that date, Respondent made a deposit into her trust account for a client in the amount of \$12,700. Chase placed a hold on \$6,200 until June 11, 2010, due to this deposit being inconsistent with the account’s normal deposit activity.

Due to the unavailability of the funds, the account went into overdraft status because Respondent had disbursed checks and transferred funds from trust before said funds were available. On June 16, 2010, the account was negative again. Respondent then transferred \$1,100 from her operating account to her trust account.

³ Respondent’s primary registration address is 100 E. Vermillion St., Ste. 204, Lafayette, LA 70501.

⁴Hearing Committee No. 44 is composed of Jere Jay Bice (Chairman), John R. Keogh (Lawyer Member) and Andrew W. Vanchiere (Pubic Member).

Respondent was required to provide copies of her trust account statements and cancelled checks from January 1, 2010 through February 28, 2010, as well as from November 1, 2010 through February 28, 2011.

Respondent acknowledged depositing all client funds into her trust account immediately upon receipt, including flat fees and earned fees. Funds were then transferred online to her operating account or to a savings account. As stated above, Respondent acknowledged this practice in her testimony at her sworn statement.

In review of the trust account, it was noted that Domingue made an excessive transfer of funds from trust to operating. In two incidences, transfers had to be made from operating to trust due to shortages.

- 5/21/10 \$2,000.00 online transfer from operating account to trust account.
- 6/25/10 \$1,100.00 online transfer from operating account to trust account.

Based upon the information obtained in the investigation into this matter, there is clear and convincing evidence that Respondent has commingled funds in her client trust account in violation of Rule 1.15 of the Louisiana Rules of Professional Conduct. As such, the imposition of sanctions is appropriate.

In the Order of July 25, 2011, the Chair of Hearing Committee Number 50 granted permission to file the instant Formal Charges relative to this matter to the Office of the Disciplinary Counsel.

II. Matter No. 0029408 - Commingling of Client Funds (Aubrey Matter)

On June 23, 2010, Respondent accepted the representation of John Aubrey. This representation was memorialized in a Fee Agreement and Authority to Represent form, which provided that Respondent would charge a fee of \$200.00 per hour to be charged against \$3,000.00 paid on that date. It was, however, determined that this check, which was processed on June 24, 2010, was not placed in Respondent's client trust account.

On July 15, 2013, Respondent appeared and rendered her sworn statement in this matter. Respondent acknowledged that the check in question was deposited into her operating account, rather than in her client trust account as it should have been.

By placing client funds into her operating account instead of her client trust account, Respondent has violated Rule 1.15 of the Louisiana Rules of Professional Conduct in that she has comingled client funds.

Though a fee dispute arose concerning the fee paid, there is no evidence to suggest that client funds were converted. The undersigned takes no position on the fee dispute that arose between Respondent and Mr. Aubrey subsequent to the termination of the representation.

II. 14-DB-027

On July 14, 2014, ODC filed the formal charges in matter No. 14-DB-027. By letters dated July 15, 2014, the formal charges were mailed via certified mail to Respondent's primary and secondary registration addresses.⁵ Both mailings were received and signed for. Respondent failed to file an answer to the charges within the time period allowed by Louisiana Supreme Court Rules XIX, §11(E)(3).

On August 29, 2014, the Office of the Disciplinary Counsel filed a "Motion to Declare Factual Allegations Deemed Proven and to Schedule Written Arguments." By order of September 25, 2014, the factual allegations contained in the formal charges were deemed admitted. On November 19, 2014, ODC filed its submission on sanctions. Hearing Committee No. 22 issued its report on February 12, 2015, recommending a one year and one day suspension.⁶

The formal charges in matter No. 14-DB-027 state in pertinent part:

Complainant, Shanette Cormier, hired Respondent in March of 2011 concerning issues with her children and their visitation with their father. Dissatisfied with Respondent's services, Complainant sent a letter on July 8, 2011 explaining that she no longer wanted Respondent to represent her.

Complainant also asked for an itemized accounting of the fee and a copy of all documents filed on her behalf as well as a refund of the unearned portion of the

⁵Respondent's primary registration address is 100 E. Vermillion St., Ste 204, Lafayette, LA 70501. Respondent's secondary registration address is 112 Saskatchewan Ave., Lafayette, LA 70501.

⁶Hearing Committee No. 22 is composed of Andrew E. Schaffer (Chairman), Owen M. Goudelocke (Lawyer Member) and Yvonne M. Olivier-Hample (Public Member).

\$3,000.00 tendered to Respondent in connection with the representation. Despite these requests, Respondent failed to provide any such accounting or any refund.

During Respondent's sworn statement, questions arose concerning the handling of the \$3,000.00 fee advanced to her from Complainant. Respondent admitted that she could not positively state whether this fee was deposited into her client trust account or not.

Respondent was specifically asked to provide a copy of the deposit records from her client trust account to show that this advance payment was appropriately deposited.

As Respondent failed to provide this information as requested, a subpoena was issued on December 4, 2013, requiring her appearance and production of these documents on December 20, 2013. This setting was extended to December 23, 2013, as Respondent claimed to have a court setting on the original date. As Respondent failed to appear on December 23, 2014, a *proces verbal* was conducted in her absence. This failure to cooperate with ODC in its investigation constitutes a violation of Rule 8.1(c).

On January 22, 2014, Complainant appeared for her sworn statement. Thereafter, she provided a copy of the cancelled check issued to Respondent on March 2, 2011. The endorsements on the back thereof indicate that this check was presented for payment on March 3, 2011 and deposited into an account not listed as Respondent's client trust account.

Applying the Louisiana Supreme Court's rulings in *In Re: Pinkston*, 728 So.2d 381 (La. 12/11/98) and *Louisiana State Bar Ass 'n v. Krasnof*, 488 So.2d 1002 (La. 05/20/86), Respondent's failure to show that these funds were placed into her client trust account creates the presumption that these funds were converted, shifting the burden to Respondent to prove that said funds have not been converted.

As such, there is sufficient evidence to prove that Respondent has violated Rule 1.15 and 1.16 of the Louisiana Rules of Professional Conduct. Said conduct further constitutes violations of Rules 8.4(a), (c), and (d). Her failure to cooperate with ODC in its investigation constitutes a violation of Rule 8.1(c).

III. Consolidation

The matters above, 14-DB-002 and 14-DB-027, were consolidated by order of the Board on February 18, 2015 and the stay issued in 14-DB-002 was lifted. ODC filed a brief on April

22, 2015, in which it concurred with the Committee's findings in the combined matters and recommended a sanction of at least one year and one day with a portion deferred.

Oral argument was heard on May 21, 2015, before Board Panel "A".⁷ Deputy Disciplinary Counsel James Standley, IV, appeared on behalf of ODC. Respondent did not attend.

THE HEARING COMMITTEE REPORTS

Hearing Committee No. 44 made the following findings of fact in matter No. 14-DB-002:

I. Matter No. 0026909 - Trust Account Overdraft

In this matter the Respondent properly deposited the client's funds into her trust account but transferred funds and issued checks out of the account before the money was collected. Chase Bank issued a hold on the account apparently pending collection of the funds. There is no evidence of any conversion or potential or actual injury to the client. There is no evidence that the funds that were transferred (or were attempted to be via checks written) were for any illicit purpose. The behavior was negligent but the error was apparently immediately addressed by additional funds being deposited into the trust account.

II. Matter No. 0029408 - Commingling of Client Funds (Aubrey Matter)

In this matter, the Respondent knew or should have known it was improper to deposit a client's funds into her operating account. Rule 1.15 (a) and (c) specifically prohibit this and require that these funds be kept separate and deposited into a trust account. Legal fees can only be withdrawn by the lawyer when they are earned or expenses incurred.

The Respondent technically commingled the funds of her client with her own funds. However, the ODC admits there is no evidence of any conversion. Also, the facts do not indicate any selfish or intentional motive nor did the client sustain any harm or injury although a fee dispute apparently arose. There was potential harm to the client because the funds were required to be kept separate and were not.

Committee No. 44 found the following mitigating factors: absence of a prior disciplinary history, no actual harm to the client, and an absence of a dishonest or selfish motive. The Committee declined to find any aggravating factors. As a sanction, the Committee recommended a public reprimand. The Committee additionally recommended

⁷ Board Panel "A" is composed of Carl A. Butler (Chairman), Dominick Scandurro, Jr. (Lawyer Member), and Evans C. Spiceland, Jr. (Public Member).

that Respondent be required to complete the LSBA Ethics School and attend eight hours of continuing legal education in the area of law practice management or the maintenance of trust accounts. Additionally, the Committee recommended that all costs associated with these matters be assessed against the Respondent.

Hearing Committee No. 22 made the following findings in matter No. 14-DB-027:

Committee No. 22 determined that Respondent violated the Rules of Professional Conduct as charged. The Committee determined that Respondent either knew or should have known she was dealing improperly with client property, engaging in conduct prejudicial to the administration of justice, and failing to cooperate with ODC's investigation of the matters. The Committee further found that her actions caused injury to her client and to the legal system. In aggravation, the Committee found the following factors: Substantial experience in the practice of law, bad faith obstruction of the disciplinary process by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of the victim and an indifference to making restitution. The Committee found one mitigating factor: a lack of prior discipline. The Committee recommended a suspension from the practice of law for a period of one year and one day. Further, the Committee recommended that Respondent make full restitution to Ms. Cormier in the amount of \$3,000 plus interest from July 8, 2011 until paid, and that Respondent return Ms. Cormier's \$175 check which had been made payable to the clerk of court. The Committee further recommended that Respondent give the entire file relating to the matter to the Complainant, and pay all costs associated with this matter.

ANALYSIS OF THE RECORD BEFORE THE BOARD

I. Standard of Review

The powers and duties of the Disciplinary Board are defined in §2 of Louisiana Supreme Court Rule XIX. Rule XIX, §2(G)(2)(a) states that the Board is “to perform appellate review functions, consisting of review of the findings of fact, conclusions of law, and recommendations of hearing committees with respect to formal charges ... and petitions for reinstatement, and prepare and forward to the court its own findings, if any, and recommendations.” Inasmuch as the Board is serving in an appellate capacity, the standard of review applied to findings of fact is that of “manifest error.” *Arceneaux v. Domingue*, 365 So. 2d 1330 (La. 1978); *Rosell v. ESCO*, 549 So. 2d 840 (La. 1989). The Board conducts a *de novo* review of the hearing committee’s application of the Rules of Professional Conduct. *In re Hill*, 90-DB-004, Recommendation of the Louisiana Attorney Disciplinary Board (1/22/92).

A. The Manifest Error Inquiry

The factual allegations in the formal charges have been deemed admitted and proven pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3). The factual findings of the Committees are supported by the factual allegations asserted in the formal charges and by the evidence submitted in support of the allegations. *See In re Donnan*, 2001-3058 (La. 1/10/03), 838 So.2d 715.

B. De Novo Review

The Committee correctly applied the Rules of Professional Conduct. Respondent failed to deposit and maintain her clients’ money in her trust account in violation of Rule 1.15. Respondent violated Rule 1.16 when she failed to respond to Ms. Cormier’s written request for an itemized accounting of the hours she spent on her case, a copy of all documents filed on her

behalf, and a refund of the unearned portion of the fees Ms. Cormier paid up front. Respondent violated Rule 8.1(c) when she failed to cooperate with the ODC by failing to appear for her sworn statement on December 23, 2013. Respondent violated Rules 8.4 (c) and (d) by her continued refusal to submit the unearned portion of the fee paid by Ms. Cormier and refusal to give Ms. Cormier an accounting of the legal services provided. By violating these Rules, Respondent has additionally violated Rule 8.4(a).

II. The Appropriate Sanction

A. Rule XIX, §10(C) Factors

Louisiana Supreme Court Rule XIX, §10(C) states that when imposing a sanction after a finding of lawyer misconduct, the Court or Board shall consider the following factors:

1. whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
2. whether the lawyer acted intentionally, knowingly, or negligently;
3. the amount of actual or potential injury caused by the lawyer's misconduct;
and
4. the existence of any aggravating or mitigating factors.

Here, Respondent violated her duty to her clients when she knowingly deposited funds advanced for costs and expenses into her operating account rather than her client trust account. She also failed to refund any unearned portion of the fees paid by Ms. Cormier or submit the matter to the LSBA Fee Dispute Program. Respondent's conduct injured her clients by depriving them of funds they were entitled to receive.

The Board finds that the following aggravating factors are supported by the record: a selfish motive, failure to cooperate with the disciplinary process and an indifference towards

making restitution. The Board finds the following mitigating factors: absence of a prior disciplinary history and inexperience in the practice of law.⁸

B. The ABA Standards and Case Law

Standard 4.12 of the *ABA Standards for Imposing Lawyer Sanctions* states, “Suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client.” Standard 7.2 states, “Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed to the profession, and causes injury or potential injury to a client, the public, or the legal system.”

The ABA Standards suggest that the baseline sanction for Respondent’s misconduct is a suspension. The Court considers comingling to be a serious professional offense and in commingling and conversion cases has imposed sanctions ranging from a minimal period of actual suspension to a lengthy suspension with conditional probation.

In re Donald R. Dobbins, 01-2022 (La.1/15/02), 805 So.2d 133, the Court suspended Mr. Dobbins for one year, with six months deferred, subject to a one year period of probation, for commingling and converting client funds. Mr. Dobbins negotiated a \$13,258.48 settlement on behalf of a client. He deposited the settlement check into his client trust account, and issued a check to his client for \$10,258.43. Close to one month later, the client deposited respondent’s check into her bank account; however, it was returned for insufficient funds. As a result, several of her personal checks were dishonored. After his client tried to reach him for several weeks, respondent eventually wired funds to her in three separate installments over a five day period making her whole.

⁸ Respondent was admitted to practice law in Louisiana on April 22, 2005, thus she was in her fifth year of practicing law when the conduct at issue began.

In response to the formal charges filed against him, respondent admitted to the misconduct, but claimed his actions stemmed from his inexperience in handling client funds, rather than a dishonest motive. He acknowledged that his “bookkeeping left a great deal to be desired” and that he had taken measures to rectify the problem by retaining a CPA to monitor his operating and trust accounts and to advise him on all accounting matters. The Court was convinced that his actions resulted more from negligence than an intentional desire on his part to convert client funds. After weighing the aggravating and significant mitigating factors,⁹ and noting that he recognized his deficiencies and made efforts to avoid future problems, the Court deferred six months of his one year suspension.

In the matter of *In re Kym K. Keller*, 08-1080 (La. 12/12/08), 998 So.2d 40, the Court found that Ms. Keller had commingled and converted client funds in violation of Rule 1.15. However, the Court believed that the underlying facts supported a finding that respondent’s conversion was largely negligent in nature and that her client did not suffer any significant harm as a result of Keller’s actions. The Court ordered that respondent be suspended for one year with all but six months deferred. The Court further ordered that, following completion of the active portion of the suspension, respondent was to be placed on unsupervised probation for a period of one year.

Similarly to the respondents’ conduct in the *Dobbins* and *Keller* matters, Ms. Domingue’s conduct appears to be negligent and the result of poor office management. However, her refusal to provide at least an accounting of her legal fees, if not a refund of unearned fees to Ms. Cormier, justifies a one year and one day suspension with a portion deferred. Respondent indicated in correspondence to the ODC that she earned the \$3,000.00 paid by Ms. Cormier at

⁹ Aggravating factors included respondent’s prior disciplinary offenses, a pattern of misconduct stemming from the long history of mishandling his trust account, and substantial experience in the practice of law. The mitigating factors included respondent’s absence of a dishonest or selfish motive, his cooperative attitude toward the disciplinary proceedings, his good character and reputation, remorse, and his timely good faith effort to make restitution and rectify the consequences of his misconduct. *Id.* at 136.

the commencement of the representation, and in fact contends she is actually owed additional money for the work completed on Ms. Cormier's behalf.¹⁰ If true, Respondent should have been able to substantiate her claim by submitting an accounting of work performed as requested by her client. Instead, she allowed both sets of formal charges to proceed deemed admitted, thereby refusing to defend or answer the allegations of misconduct. Her decision to remain unresponsive to the allegations levied against her is a cause for concern and makes this case more injurious than if it were solely a matter of negligently mismanaging her client trust account.

Considering the jurisprudence, the appropriate sanction for Respondent's misconduct is a one year and one day suspension from the practice of law with six months deferred, subject to one year of probation. As Respondent allowed both matters to move forward deemed admitted, the record does not contain evidence which would support additional mitigating factors which would allow the Board to consider a lesser sanction.

CONCLUSION

The Board adopts the factual findings and legal conclusions of the Committee. The Board recommends that Respondent be suspended from the practice of law for one year and one day with six months deferred, subject to one year of probation. The Board also recommends that Ms. Domingue be required to attend the trust accounting school administered by the Louisiana State Bar Association. Finally, the Board recommends that Ms. Domingue either resolve the fee dispute directly with her client, Ms. Cormier, or arbitrate the fee dispute with Ms. Cormier through the Bar's Fee Arbitration program and abide by any decision that may result. Finally, the Board recommends that Respondent be assessed with the costs and expenses of this matter.

¹⁰ See Exhibit ODC 3, Respondent's 5/17/13 correspondence to ODC, p. 3.

RECOMMENDATION

The Board recommends that Respondent, Olita Magee Domingue, be suspended from the practice of law for one year and one day with six months deferred, subject to one year of probation. The probationary period should commence from the date Respondent and ODC execute a formal probation plan. Any failure of Respondent to comply with the conditions of probation, or any misconduct during the probationary period, may be grounds for making the deferred portion of the suspension executory, or imposing additional discipline, as appropriate. The Board also recommends that Ms. Domingue be required to attend the trust accounting school administered by the Louisiana State Bar Association. Finally, the Board recommends that Ms. Domingue either resolve the fee dispute directly with her client, Ms. Cormier, or arbitrate the fee dispute with Ms. Cormier through the Bar's Fee Arbitration program and abide by any decision that may result. Finally, the Board recommends that Respondent be assessed with the costs and expenses of this matter.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

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Walter D. White

BY:



Carl A. Butler
FOR THE ADJUDICATIVE COMMITTEE

APPENDIX

RULE 1.15 SAFEKEEPING PROPERTY

- (a) 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. Except as provided in (g) and the IOLTA Rules below, funds shall be kept in one or more separate interest-bearing client trust accounts maintained in a bank or savings and loan association: 1) authorized by federal or state law to do business in Louisiana, the deposits of which are insured by an agency of the federal government; 2) in the state where the lawyer's primary office is situated, if not within Louisiana; or 3) elsewhere with the consent of the client or third person. No earnings on a client trust account may be made available to or utilized by a lawyer or law firm. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.
- (b) 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 or obtaining a waiver of those charges, but only in an amount necessary for that purpose.
- (c) 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. The lawyer shall deposit legal fees and expenses into the client trust account consistent with Rule 1.5(f).
- (d) 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. For purposes of this rule, the third person's interest shall be one of which the lawyer has actual knowledge, and shall be limited to a statutory lien or privilege, a final judgment addressing disposition of those funds or property, or a written agreement by the client or the lawyer on behalf of the client guaranteeing payment out of those funds or property. Except as stated in this rule 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.
- (e) 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 property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.
- (f) Every check, draft, electronic transfer, or other withdrawal instrument or authorization from a client trust account shall be personally signed by a lawyer or, in the case of electronic, telephone, or wire transfer, from a client trust account, directed by a lawyer or, in the case of a law firm, one or more lawyers authorized by the law firm. A lawyer shall not use any debit card or automated teller machine card to withdraw funds from a client trust account. On client trust accounts, cash withdrawals and checks made payable to "Cash" are prohibited.

Rule 1.16. DECLINING OR TERMINATING REPRESENTATION

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client's new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

RULE 8.1. BAR ADMISSION AND DISCIPLINARY MATTERS

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: ...

(c) Fail to cooperate with the Office of Disciplinary Counsel in its investigation of any matter before it except for an openly expressed claim of a constitutional privilege.

RULE 8.4. MISCONDUCT

It is professional misconduct for a lawyer to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) ...

(c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice; ...