

ORIGINAL

Louisiana Attorney Disciplinary Board

FILED by: *Donna P. Burgess*

Docket#

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18-DB-020

9/20/2018

**LOUISIANA ATTORNEY DISCIPLINARY BOARD**

**IN RE: QUIANA MARIE HUNT**

**DOCKET NO. 18-DB-020**

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**REPORT OF HEARING COMMITTEE # 37**

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**INTRODUCTION**

This attorney disciplinary matter arises out of formal charges consisting of one count filed by the Office of Disciplinary Counsel (“ODC”) against Quiana Marie Hunt (“Respondent”), Louisiana Bar Roll Number 35835.<sup>1</sup> ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.15(a), 1.15(f), 8.1(c), and 8.4(a).<sup>2</sup>

**PROCEDURAL HISTORY**

The formal charges were filed on February 23, 2018. By letter dated February 27, 2018, the formal charges were mailed via certified mail to Respondent’s primary registration address.<sup>3</sup> The mailing was returned marked as “vacant.” By letter dated March 19, 2018, ODC requested the Board serve Respondent at her secondary registration address,<sup>4</sup> which was done by certified mail with letter dated March 26, 2018.<sup>5</sup> Respondent failed to file an answer to the charges. Accordingly, on April 26, 2018, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).<sup>6</sup> By order signed May 7, 2018,

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<sup>1</sup> Respondent was admitted to the practice of law in Louisiana on October 30, 2014.

<sup>2</sup> See the attached Appendix for the text of these Rules.

<sup>3</sup> 1 Galleria Blvd., Suite 1670, Metairie, LA 70001.

<sup>4</sup> 313 Haring Rd., Metairie, LA 70001.

<sup>5</sup> This mailing was returned to the Board on or about May 2, 2018.

<sup>6</sup> 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

the factual allegations contained in the formal charges were deemed admitted. On June 13, 2018, ODC filed its submission on sanction.

### **FORMAL CHARGES**

The formal charges read, in pertinent part:

#### **III.**

Respondent has a client trust account with Capital One, N.A. entitled The Hunt-Clark Law Firm LLC IOLTA Attorney Trust Account, account number XXXXXX4674.

#### **IV.**

On February 13, 2017, the Office of Disciplinary Counsel (ODC) received notice that on February 2, 2017, Respondent's IOLTA account held insufficient funds to honor check number 118 in the amount of \$1,500, which was presented for payment.

#### **V.**

On February 15, 2017, via certified mail to Respondent's then primary and preferred address registered with the Louisiana State Bar Association (LSBA), Respondent was notified of the overdraft and asked to provide an explanation for the overdraft as well as specific documentation. Although notice was left, Respondent did not retrieve the correspondence, and it was returned to the ODC.

#### **VI.**

An ODC investigation was opened under ODC 0035557, and on March 7, 2017, via certified mail to Respondent's then LSBA-registered primary and preferred address, Respondent was notified of the complaint and again asked to provide specific documentation to the ODC. That correspondence was received on March 15, 2017, and on March 22, 2017, Respondent faxed banking records to the ODC, in partial satisfaction of the requests for documents. The facsimile

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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.

transmittal was incomplete - 35 of 58 pages were received. By correspondence dated March 22, 2017, but received on April 15, 2017, Respondent submitted the same information earlier sent to the ODC via facsimile, with a cover letter advising that the response was "without complete information." On April 18, 2017, the undersigned wrote to Respondent advising that the matter would be held in abeyance for two weeks to allow Respondent to gather the remaining documents.

## VII.

Receiving no further response, on July 14, 2017, the ODC wrote to Respondent asking that she contact the ODC to schedule a sworn statement. Again, receiving no response, on August 28, 2017, Respondent personally was served with a *subpoena duces tecum* directing production of documentation to the ODC on or before September 26, 2017, and with a subpoena to appear for a sworn statement on October 10, 2017.

## VIII.

Respondent did not comply with the *subpoena duces tecum* and failed to appear at the October 10, 2017, sworn statement. On the day of her sworn statement, the ODC contacted Respondent, who provided an ODC-requested written explanation for her absence.

## IX.

Respondent's sworn statement was rescheduled for October 13, 2017. The ODC sent written confirmation of the date to Respondent. The ODC enclosed a copy of the earlier-served *subpoena duces tecum* and asked Respondent to bring the requested documents with her to the rescheduled sworn statement.

## X.

Respondent appeared on October 13, 2017, for the purpose of providing her sworn statement. On that date, she provided the ODC with a few additional banking records. Client records requested in the *subpoena duces tecum* were not provided.

## XI.

During Respondent's October 13, 2017, sworn statement, she agreed to pay the costs of the *proces verbal* and the rescheduled sworn statement. Respondent also agreed, within two weeks of her sworn statement, to provide the ODC with the documents requested in the *subpoena duces tecum*. On December 28, 2017, the ODC forwarded to Respondent a copy of the invoice associated with the *proces verbal* and the sworn statement. The ODC also

forwarded to Respondent a copy of the *subpoena duces tecum* and a reminder of her agreement to provide the ODC with the requested documents. Respondent has not paid the costs associated with her *proces verbal* and sworn statement. Respondent also has not provided the ODC with the requested documents. Respondent has had no further contact with the ODC.

## XII.

During her sworn statement, Respondent offered that the check causing the overdraft had been written several months before the payee attempted to cash it, and in the meantime, she had withdrawn funds to pay an expert witness, leaving insufficient funds to satisfy the earlier written check. When the overdraft occurred, she deposited funds to cover the cost of the expert witness and issued a new check to the payee with "extra money for his inconvenience."

Respondent indicated that she reconciles her client trust account every two to three months, but during the time period at issue, she had health issues and was busy with federal litigation. Respondent maintained that her client records are maintained on several computers. Respondent offered that after her interaction with ODC, she had begun maintaining ledgers. Respondent did not provide the ODC with any reconciliations, computer records, or ledger sheets.

Regarding payments made from her trust account to Office Depot, Respondent offered that the payments were for office supplies "because part of [her] contract with [her] clients is that they pay for supplies, like for trial preparation," including "[i]nk, paper, folders, trial notebooks, hole punch, label, everything that you need to get ready for trial." Although Respondent stated that she had receipts to verify the purchases, she did not provide copies of those receipts to the ODC. Respondent provided the ODC with only one client contract (Boyd), which provides:

I agree to pay all costs and expenses in connection with Attorney's handling of this matter. ... These costs may include (but are not limited to) the following: long distance telephone charges, photocopying (.25 per page), postage, supplies, facsimile costs, Federal Express or other delivery charges, deposition fees, expert fees, subpoena costs, court costs, sheriff's and service fees, travel expenses and investigation fees.

When asked about over-the-counter cash withdrawals from her client trust account, Respondent offered that on November 1, 2016, she withdrew \$1,000 to pay a cash down payment for an expert. A February 8, 2017, \$100 cash withdrawal was explained as money to pay Stanley Price, a paralegal, to do research on a case regarding client Bridgette McCoy. A February 13, 2017, \$150 cash withdrawal was explained as a legal fee paid to Respondent for representing McCoy, with whom Respondent stated she had a contingency fee agreement. When asked why she was collecting a legal fee from the trust account for a

contingency fee representation, Respondent offered that the money in the client trust account was "money that [Respondent] had raised for [McCoy] and put it in the account in order that [Respondent] may use it to pursue her case." Respondent stated that she had raised \$3,900 on behalf of McCoy, which she deposited into her client trust account in "[b]its and pieces." Respondent offered: "So if I have to do something that is extra or outside like my duty of representation, then I will pay myself, for example, the case was over at that time and I was doing some investigation into - and some research into how to file an appeal, what needed to be submitted for an appeal, those types of things. ... My representation of her was over at that time." Respondent advised the ODC that she had records to reflect the receipt and disbursement of funds on behalf of McCoy and other clients; however, she failed to bring the documents with her to her sworn statement and the documents were not provided to the ODC after the statement.

### XIII.

Using the banking records and limited client documents provided by Respondent, ODC Forensic Auditor Angelina Marcellino, C.I.A., prepared an audit report for the period September of 2016 through March of 2017. Marcellino identified misuse of Respondent's client trust account. Examples of misuse include:

1. Check payable to "cash."
2. Cash withdrawals.
3. Payment of operating expenses (office supplies).
4. Absence of bank reconciliations.
5. Obviously varied signatures for the payer endorsement (purportedly the Respondent's signature).
6. Inability or unwillingness to provide documents and information necessary for completion of a forensic audit (client agreements; settlement statements; billing records; proof of deposits; identification of transactions; etc.).

### XIV.

The ODC respectfully submits that the evidence amassed to date establishes clear and convincing evidence that as a matter of law Respondent, Quiana Marie Hunt, has violated the Rules of Professional Conduct, Rules 1.15(a), (f) (safekeeping client property, commingling, conversion); 8.1(c) (cooperate); and 8.4(a) (violate or attempt to violate the Rules of Professional Conduct, dishonest conduct).

## **EVIDENCE**

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-18. Respondent did not submit evidence or argument for the Committee's consideration, nor did she request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

## **FINDINGS OF FACT**

In view of the Order signed on May 7, 2018, each factual allegation set forth above in the Formal Charges are deemed admitted and are adopted as the Findings of Fact.

## **RULES VIOLATED**

Quiana Marie Hunt has violated the Rules of Professional Conduct, Rules 1.15(a), (f) (safekeeping client property, commingling, conversion); 8.1(c) (cooperate); and 8.4(a) (violate or attempt to violate the Rules of Professional Conduct, dishonest conduct).

## **SANCTION**

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a committee 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 the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to her clients and the legal system. She acted negligently as to her trust account, but knowingly in her failure to cooperate. Respondent's misconduct caused no actual harm to clients (there is no evidence client funds were misappropriated), but caused harm by failing to cooperate with the Office of Disciplinary Counsel that caused a waste of resources and needless expense.

Respondent has mishandled her client trust account, resulting in the commingling of client funds. In *Louisiana State Bar Ass'n v. Hinrichs*, 486 So. 2d 116 (La. 1986), the court established the following guidelines in determining the appropriate sanction:

In a typical case of disbarment for violation of DR 9-1 02 [now Rule 1.15], one or more of the following elements are usually present: the lawyer acts in bad faith and intends a result inconsistent with his client's interest; the lawyer commits forgery or other fraudulent acts in connection with the violation; the magnitude or the duration of the deprivation is extensive; the magnitude of the damage or risk of damage, expense and inconvenience caused the client is great; the lawyer either fails to make full restitution or does so tardily after extended pressure of disciplinary or legal proceedings.

A three[-]year suspension from practice typically results in cases involving similar but less aggravated factors. In such cases the lawyer is guilty of at least a high degree of negligence in causing his client's funds to be withdrawn or retained in violation of the disciplinary rule. He usually does not commit other fraudulent acts in connection therewith. The attorney usually benefits from the infraction but, in contrast with disbarment cases, the client may not be greatly harmed or exposed to great risk of harm. The attorney fully reimburses or pays his client the funds due without the necessity of extensive disciplinary or legal proceedings.

A suspension from practice of eighteen months or two years will typically result where the facts are appropriate for a three-year suspension, except that there are significant mitigating circumstances; or where the facts are appropriate for a one-year suspension, except that there are significant aggravating circumstances.

A suspension from practice of one year or less will typically result where the negligence in withdrawing or retaining client funds is not gross or of a high degree. No other fraudulent acts are committed in connection with the violation of the disciplinary rule. There is no serious harm or threat of harm to the client. Full restitution is made promptly, usually before any legal proceeding or disciplinary complaint is made.

*Hinrichs*, 486 So. 2d at 122-123 (citations omitted).

When an attorney has no prior disciplinary history, there is little or no actual client or third party harm, and the attorney has cooperated with the ODC, the court often imposes a fully-deferred suspension for trust account mismanagement. See *In re: Spears*, 2011-1135 (La. 9/2/11), 72 So. 3d 819 (per curiam) (fully deferred one-year and one-day suspension, subject

to a two-year period of supervised probation, imposed upon an attorney who failed to maintain the financial records of his trust account, resulting in negligent commingling and conversion of funds); *In re: Cicardo*, 2004-0828 (La. 7/2/04), 877 So. 2d 980 (per curiam) (fully deferred one-year suspension, subject to a two-year period of probation with conditions, imposed upon attorney who mishandled his client trust account by keeping personal funds in the account, which he occasionally borrowed to fund his operating account, but caused no actual harm to his clients or to third parties); *In re: Crooks*, 2000-1359 (La. 6/23/00), 762 So. 2d 1077 (per curiam) (consent discipline) (fully deferred one-year and one-day suspension, subject to a two-year period of probation with conditions, imposed upon an attorney for the unintentional conversion of three clients' funds stemming from negligent mismanagement of his trust account and failure to supervise his non-lawyer assistants).

However, an actual period of suspension is imposed when commingling and conversion are coupled with a failure to cooperate or when there are aggravating circumstances present. Consider the matter of *In re: Martin*, 2017-1288 (La. 10/16/17), 226 So. 3d 1108 (per curiam) (deemed admitted), in which the respondent was guilty of "at least" a high degree of negligence in mismanaging his trust account. Although the record did not clearly establish the extent of harm to clients, the potential for harm existed. No other fraudulent acts were committed in connection with the misconduct, and the respondent did not benefit from the infraction; the overdraft was resolved. The baseline sanction was identified as suspension. Aggravating circumstances included a dishonest or selfish motive and substantial experience in the practice of law. It also was observed that the respondent failed to cooperate with the ODC. In mitigation, there was the absence of a prior disciplinary record and the imposition of other penalties and sanctions. Respondent received a two-year period of actual suspension. *See, e.g., In re: Spears*,



2011-1135 (La. 9/2/11), 72 So. 3d 819 (per curiam) (one-year suspension for failing to maintain adequate trust account records, commingling, and conversion of client and/or third-party funds when he allowed his trust account to become overdrawn, no actual harm but potential for serious harm to clients and third parties); *In re: Klaila*, 2018-0093 (La. 3/23/2018), 238 So. 3d 949 (per curiam) (deemed admitted) (one-year and one-day suspension for misconduct including negligent violation of Rule 1.15, knowing failure to cooperate, and failure to return an unearned fee; two counts); *In re: Dumas*, 2015-1570 (La. 2/4/16), 187 So. 3d 428 (per curiam) (two-year suspension for grossly mishandling trust account resulting in commingling and conversion of client funds, actual harm identified, high degree of negligence, prior discipline, cooperation, and acceptance of responsibility).

#### CONCLUSION

For the reasons set forth above, the Committee recommends a one year and one day suspension, with Respondent cast with all costs and expenses.

New Orleans, Louisiana, this 19<sup>th</sup> day of September, 2018.

**Louisiana Attorney Disciplinary Board  
Hearing Committee # 37**

**Robert M. Johnston, Committee Chair  
Wade P. Webster, Lawyer Member  
Linda S. Ellis, Public Member**

BY:



**Robert M. Johnston, Committee Chair  
For the 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.

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(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. A lawyer shall subject all client trust accounts to a reconciliation process at least quarterly, and shall maintain records of the reconciliation as mandated by this rule. ...

### 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:

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(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; ...