

IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v.

ELIZABETH JAYNE ANDERSON,

Respondent.

Supreme Court Case
No. SC-

The Florida Bar File
No. 2018-30,452 (19A) (CES)

PETITION FOR EMERGENCY SUSPENSION

This petition of The Florida Bar seeks emergency relief and requires the immediate attention of the court pursuant to R. Regulating Fla. Bar 3-5.2. The Florida Bar seeks the emergency suspension of Elizabeth Jayne Anderson, Attorney No. 626351, from the practice of law in Florida based on facts that establish clearly and convincingly that Elizabeth Jayne Anderson appears to be causing great public harm by engaging in a pattern of misappropriating client trust funds and neglecting client matters. Those facts are supported by the affidavit of Branch Auditor Matthew D. Herdeker, CPA, attached hereto as Exhibit "A," the transcript of respondent's sworn statement dated August 1, 2018 (without exhibits), attached hereto as Exhibit "B," and The Florida Bar Inquiry/Complaint Form received by The Florida Bar from Natasha Takhsha, Director of Stoneybrook

RECEIVED, 10/03/2018 01:09:59 PM, Clerk, Supreme Court

West Master Association, Inc. dated November 13, 2017 attached as Exhibit “C” and demonstrate the following:

1. The filing of this Petition for Emergency Suspension has been authorized by the Executive Director of The Florida Bar.
2. Respondent, Elizabeth Jayne Anderson, is and at all times hereinafter mentioned, was a member of The Florida Bar and subject to the jurisdiction and disciplinary rules of the Supreme Court of Florida.
3. Respondent currently is the subject of a bar disciplinary matter which has been assigned The Florida Bar file number 2018-30,452 (19A).
4. The Bar's investigation of this matter found that respondent has misappropriated client trust funds and engaged in a pattern of neglecting client matters.
5. After receiving The Florida Bar Inquiry/Complaint Form by Natasha Takhsha, Director of Stoneybrook West Master Association, The Florida Bar conducted an audit of respondent's trust accounts for the time period of December 1, 2013 through April 30, 2018. In addition, the bar conducted a review of respondent's law office operating account for the time period of December 1, 2013 through April 30, 2018.
6. During the audit period, respondent maintained a total of seven trust accounts:

- a. The Anderson Legal Group trust account maintained at Northern Trust Company, opened in April 2010 and closed in November 2014.
- b. The Anderson Legal Group trust account maintained at Fairwinds Credit Union, opened prior to December 2013.
- c. The Anderson Legal Group trust account maintained at Seaside National Bank, opened in June 2014.
- d. The Anderson Legal Group trust account maintained at SunTrust Bank, opened November 2014 and closed in December 2016.
- e. Anderson Hew, PLLC real estate trust account maintained at Florida Community Bank opened October 2016.
- f. Anderson Hew, PLLC wire trust account maintained at Florida Community Bank opened October 2016.
- g. Anderson Hew, PLLC general trust account maintained at Florida Community Bank opened October 2016.

7. Respondent formed The Anderson Legal Group, LLC in 2010 and maintained trust accounts at Seaside National Bank & Trust, Northern Trust Co., SunTrust Bank and Fairwinds Credit Union. Respondent was the only authorized signatory on the accounts except for a brief period of time when respondent was out of the country and authorized her office manager, Cynthia Pischetola, to make disbursements from the trust account maintained at Fairwinds Credit Union.

8. At the time respondent opened her trust account for Anderson Legal at Fairwinds Credit Union prior to December 2013, the Rules Regulating The Florida Bar did not permit attorneys to maintain attorney trust accounts at credit unions and respondent failed to provide The Florida Bar Foundation with the required notice of this account.

9. In October 2016, respondent and attorney Jessica K. Hew formed Anderson Hew, PLLC. Anderson Hew, PLLC maintained three trust accounts at Florida Community Bank. Respondent and Ms. Hew were the only authorized signers on the firm's trust accounts. Respondent and Ms. Hew terminated their partnership effective December 31, 2017.

Representation of Stoneybrook West Master Association

10. On or about December 16, 2013, Stoneybrook West Master Association (hereinafter referred to as "Stoneybrook"), a homeowners' association, hired respondent's law firm, The Anderson Legal Group, to represent it in various legal matters including, but not limited to, collections, claims of lien, foreclosures, workouts, mediation, violations of the Declaration of Covenants and Restrictions, demand letters, attendance at board meetings, bylaws violations, annual elections, and any other matters involving the homeowners' association that the Board of Directors deemed necessary.

11. Stoneybrook terminated respondent's services in or around August 2017 due to ongoing issues with lack of diligence, lack of communication, lack of timely and accurate billing statements, and failure to provide timely and accurate accountings of the funds respondent collected on behalf of Stoneybrook. Upon termination, respondent failed to provide Stoneybrook with its files in a timely manner, failed to provide Stoneybrook with an accounting of the funds respondent was holding in trust in connection with her representation of the homeowners' association, and failed to remit trust funds to Stoneybrook's new counsel in a timely manner.

12. From December 2013 to August 2017 during respondent's representation of Stoneybrook, only seven lien foreclosures were commenced and none of the cases were prosecuted. Service of process was not completed on some files, the court dismissed some of the cases for lack of prosecution, and in one case, the subject property changed ownership. Based on the timing of the foreclosure filings, it appeared respondent commenced them only after Stoneybrook began questioning respondent about the collection files.

13. Respondent failed to provide Stoneybrook with a timely and accurate accounting of the retainer paid by Stoneybrook at the outset of the representation in 2013.

14. Respondent used The Anderson Legal Group trust account at Seaside Bank for all matters concerning her representation of Stoneybrook.

Seaside Trust Account

15. Respondent failed to label the Seaside account as a trust account as required.

16. Respondent failed to maintain the backs of cancelled checks for the Seaside account as required.

17. Entries in the ledger cards for the Seaside trust account did not consistently contain reasons for transactions as required.

18. Respondent's reconciliations for the Seaside account reconciliations for July 2014 and December 2014 did not identify outstanding checks by date and check number as required.

19. Respondent did not provide monthly comparisons for the Seaside account as required.

20. The bar's audit determined that, as of February 23, 2018, there was a shortage of approximately \$37,000.00 in the Seaside trust account, representing trust account funds belonging to Stoneybrook which respondent was required to promptly turn over to Stoneybrook's new counsel.

21. On February 23, 2018, the beginning daily balance in the Seaside trust account was \$1,543.54.

22. On February 23, 2018, respondent deposited a total of \$37,000.00, which she received as a loan from her parents, into her Seaside trust account. The ending daily bank balance in the account was \$38,543.54. On February 27, 2018, respondent used the funds she received from her parents to wire \$37,870.03 to Neil A. Saydah, P.A., the new attorney for Stoneybrook. Based on respondent's ledger cards for Stoneybrook matters, the payment was for balances totaling \$50,309.04 she owed to Stoneybrook in thirty matters, offset by overpayments to Stoneybrook totaling \$12,439.01 in sixteen matters.

23. During her sworn statement on August 1, 2018, respondent admitted to the shortage in her Seaside trust account and stated that she would not have been able to pay the balances she owed to Stoneybrook without obtaining either the loan from her parents or using funds from her retirement account.

24. During her sworn statement on August 1, 2018, respondent testified under oath that the shortages in her Seaside trust account were the result of some deposits related to Stoneybrook being deposited to her law office operating account at Fairwinds Credit Union and some deposits related to Stoneybrook not being deposited at all. Respondent testified that this situation was the result of errors committed by her nonlawyer employees.

25. During her sworn statement on August 1, 2018, respondent admitted that the Stoneybrook funds that were deposited to her Fairwinds Credit Union operating account were no longer available.

26. The bar's audit of respondent's Fairwinds Credit Union operating account determined that between May 1, 2017 and February 27, 2018, the ending daily bank balance ranged between -\$105.00 and \$366.41.

27. Respondent engaged in a course of conduct in connection with her Seaside trust account whereby she utilized Stoneybrook trust funds for her own benefit and/or for the benefit of her law firm.

28. On or around January 12, 2015, respondent issued a check for \$10,000.00 from her Seaside trust account, payable to Anderson Legal Group. The memo line was blank. The check cleared on January 13, 2015. Respondent recorded this check in the Belle Isle Bayou client ledger, which had a balance of -\$5,579.84 before the payment. The \$10,000.00 payment increased the negative balance to -\$15,579.84. No funds were available from the Belle Isle Bayou matter for respondent to use.

29. Respondent testified during her August 1, 2018 sworn statement that she believed the \$10,000.00 payment was for her legal fees. Respondent stated that the Belle Isle Bayou matter was not related to Stoneybrook. Instead, it was a commercial real estate closing.

30. Respondent testified during her August 1, 2018 sworn statement that her Seaside trust account was used only for Stoneybrook matters. Therefore, respondent knew, or reasonably should have known, no funds were on deposit in the Seaside trust account from which she could pay herself legal fees for a real estate closing not pertaining to Stoneybrook.

31. Respondent knew or reasonably should have known there were insufficient funds on deposit in any of her trust accounts in connection with the Belle Isle Bayou client matter for payment of a legal fee in the amount of \$10,000.00 on January 12, 2015.

32. Respondent deposited the \$10,000.00 from her Seaside trust account to her law firm's operating account at Fairwinds Credit Union and then used a portion of the funds to pay American Express for what respondent described as business expenses, to Navient for her student loan, and to an employee for payroll.

33. Without the deposit of the \$10,000.00 from her trust account, respondent's operating account would have had insufficient funds to cover those payments made by respondent.

34. During her sworn statement on August 1, 2018, respondent testified under oath that the funds for the Belle Isle Bayou matter, which she admitted was unrelated to her representation of Stoneybrook, were on deposit in a different trust account than the one she maintained at Seaside.

35. The bar's audit determined that funds intended for the Belle Isle Bayou real estate closing in the amount of \$10,000.00 were deposited to respondent's trust account maintained at Northern Trust Company July 16, 2014. On July 23, 2014, respondent issued a wire transfer in the amount of \$4,500.00 from the Northern Trust Company trust account to Lombardi & Associates, LLC. On or around August 12, 2014, respondent transferred the remaining \$5,500.00 balance to her Seaside Bank trust account. Respondent provided no explanation as to why funds pertaining to a commercial real estate closing were transferred from her Northern Trust Company trust account to the Seaside trust account for the benefit of Stoneybrook, an unrelated client matter.

36. On or around January 29, 2016, respondent issued a check for \$4,458.26 from her Seaside trust account, payable to Anderson Legal Group. The memo line referenced the matter 13413 Fox Glove Street and respondent testified during her August 1, 2018 sworn statement that this was a Stoneybrook matter. The check cleared February 17, 2016. The disbursement was recorded in the ledger card for the 13413 Fox Glove Street matter, which had a balance of only \$751.18 before the payment. The disbursement resulted in a balance of -\$3,707.08 in the ledger. There were insufficient funds in the ledger for respondent to use.

37. During her sworn statement on August 1, 2018, respondent testified under oath that she disbursed the funds in error and at the time believed they were

her fees. Respondent deposited the \$4,458.26 into her Fairwinds Credit Union operating account where she used a portion of the funds to pay Attorney Closing Services and American Express for what respondent described as business expenses. Without this deposit, respondent's operating account would have had insufficient funds to make these payments.

38. On or around February 20, 2016, respondent issued a check from her Seaside trust account for \$2,112.00 payable to Anderson Legal Group. The memo line referenced the matter 2531 Balforn Tower. The check cleared March 1, 2016. Respondent recorded the disbursement in the ledger card titled "Firm Funds" with the description "posted to 2531 in error." The ledger card for 2531 Balforn Tower showed a balance of only \$645.54 as of March 1, 2016. Therefore, there were insufficient funds in that ledger to support the payment. The Firm Funds ledger showed that after the \$2,112.00 payment, the balance was -\$3,729.03. Therefore, there were no funds available to respondent in that ledger either. Respondent deposited the \$2,112.00 into her Fairwinds Credit Union operating account where she used a portion of the funds to pay her office rent.

Fairwinds Trust Account

39. In addition to the shortages in respondent's Seaside trust account, the bar's audit determined there were shortages in her trust account maintained at

Fairwinds Credit Union as well. Respondent utilized the Fairwinds Credit Union trust account for matters that were not related to Stoneybrook.

40. The bar's audit revealed that there was a shortage of at least \$122,330.62 in respondent's Fairwinds Credit Union trust account as of April 30, 2018. On that date, respondent should have been holding balances totaling \$242,570.18 for four matters. The bank balance on April 30, 2018, however, was only \$120,239.56.

41. Respondent used client funds on deposit in her Fairwinds Credit Union trust account, to which she was not entitled, for her own benefit, the benefit of others, or the benefit of her law firm.

42. In the first instance, on or around December 22, 2015, respondent wrote a check for \$100,000.00 to her client Karamchand Doobay from the Fairwinds Credit Union trust account. The check cleared December 23, 2015. Respondent did not have any funds on deposit in this account related to Mr. Doobay. As a result, respondent's Fairwinds Credit Union trust account was short \$100,000.000 until Mr. Doobay returned the funds five days later. Respondent utilized funds pertaining to other, unrelated client matters, to pay Mr. Doobay.

43. Respondent testified during her sworn statement on August 1, 2018 that she pre-signed the check drawn on her Fairwinds Credit Union trust account that was made payable to Mr. Doobay prior to receiving the required

corresponding deposit, thus permitting a situation to exist whereby Mr. Doobay was able to obtain possession of the pre-signed check and deposit it prior to receipt of the wire deposit.

44. In the second instance, on July 15, 2016, a TD Bank official check in the amount of \$32,000.00 was deposited into respondent's Fairwinds Credit Union operating account despite the fact the check should have been deposited to respondent's Fairwinds Credit Union trust account. The remitter was William Murphy and the memo on the check read "For Settlement of Case No.: 2014-CA-003174-O Full Payment." The settlement was for respondent's client, Andrea Vogels.

45. Over the course of the next two months, respondent disbursed almost the entire amount of the settlement funds from the operating account. By September 19, 2016, the balance in respondent's Fairwinds Credit Union operating account was \$194.31. Respondent utilized the settlement funds to pay Highwoods Realty for office rent, herself, American Express, and Florida Lawyers Mutual.

46. On August 23, 2016, respondent disbursed \$27,289.50 to Andrea Vogels from her Fairwinds Credit Union trust account. The check memo referenced the Murphy settlement. Because respondent failed to deposit the settlement funds to her the Fairwinds Credit Union trust account, respondent used other clients' funds to make the \$27,289.50 payment to Ms. Vogels. During her

sworn statement on August 1, 2018, respondent acknowledged the payment created a shortage in her trust account and was unsure if she corrected this shortage.

47. In a third occurrence, on January 18, 2017, there was a \$5,223.00 withdrawal from respondent's Fairwinds Credit Union trust account and a deposit of the funds to respondent's Fairwinds Credit Union operating account. The withdrawal was recorded in the ledger for the Gastro Intestinal Consultants of Central FLA matter. Before the payment, the balance in the ledger was \$0.00. There were no funds available for respondent to use. After the payment, the balance in the ledger was -\$5,223.00. In the Fairwinds Credit Union operating account, respondent issued a check for \$5,075.00, dated January 9, 2017, to Perry Wilson for reimbursement of a loan. The check cleared January 20, 2017. Without the \$5,223.00 from the trust account, respondent would have had insufficient funds in the operating account to cover the check to Mr. Wilson. Respondent testified during her sworn statement on August 1, 2018 that Mr. Wilson was a friend who gave her a loan several years ago.

48. On a fourth occasion, on February 23, 2017, respondent wired \$8,500.00 from her Fairwinds Credit Union trust account to the Anderson Hew operating account at Florida Community Bank. The wire transfer was recorded in the ledger for the Gastro Intestinal Consultants of Central FLA matter. Before the payment, the balance in the ledger was -\$5,223.00. There were no funds available,

therefore, for respondent to use. After the payment, the balance in the ledger was -\$13,723.00. Thereafter, on February 22, 2017, respondent issued a check from the Florida Community Bank operating account for Anderson Hew in the amount of \$8,128.97 to Highwoods for office rent. The check cleared February 24, 2017. Without the \$8,500.00 wire transfer from respondent's Fairwinds Credit Union trust account, there would have been insufficient funds in the operating account to cover the check written to Highwoods for office rent.

49. In the above examples, respondent also commingled client funds from the Seaside trust account and the Fairwinds Credit Union trust account with operating account funds.

50. Respondent also failed to maintain her trust account at Fairwinds Credit Union in compliance with the Rules Regulating The Florida Bar.

51. Numerous entries in the journal for Fairwinds Credit Union trust account failed to include the required client name and the reason for the transaction. Entries in the ledger cards for the Fairwinds Credit Union trust account did not consistently contain reasons for transactions. Respondent failed to provide and/or maintain all monthly reconciliations for the account, as required.

SunTrust Trust Account

52. Respondent maintained her trust account at SunTrust Bank for real estate closings. The bar's audit of respondent's SunTrust trust account determined

that, as of July 18, 2016, there was a shortage of at least \$850.00 in her SunTrust trust account.

53. On September 29, 2015, respondent conducted a real estate closing in the account in which William Lenihan and Stacey Lenihan sold property at 1129 Maybrook Street, Apopka, Florida. In connection with the closing, respondent issued an official check for \$5,788.22 to Bank of America, dated October 15, 2015, for one of Mr. Lenihan's mortgage payoffs. The check was returned and deposited back into respondent's SunTrust trust account on January 21, 2016. In her sworn statement on August 1, 2018, respondent testified that Bank of America returned the check because the bank believed the amount was insufficient to satisfy the mortgage. Respondent testified that she later was able to provide Bank of America with an estoppel letter confirming \$5,788.22 was the correct amount.

54. Respondent should have held the \$5,788.22 in her SunTrust trust account until she reissued the payoff. On July 18, 2016, however, respondent withdrew \$3,000.00 cash from her SunTrust trust account, resulting in a balance of \$4,938.22. This balance was \$850.00 less than what she was required have on deposit for Mr. Lenihan's mortgage payoff. On November 15, 2016, respondent withdrew the remaining balance of \$4,938.22 from the SunTrust trust account and used it to purchase another official check to Bank of America for the mortgage payoff in the amount of \$5,788.22. The withdrawal slip showed that respondent

needed \$850.00 cash in addition to the \$4,938.22 to purchase the \$5,788.22 payoff check.

Florida Community Bank Trust Account

55. Respondent also failed to maintain the Anderson Hew general trust account at Florida Community Bank in compliance with the Rules Regulating The Florida Bar.

56. Respondent failed to properly maintain the journal because it failed to consistently identify the client for transactions and reasons for transactions. Respondent also failed to properly maintain ledger cards for the Anderson Hew general trust account in substantial minimum compliance with the Rules Regulating The Florida Bar. The ledger cards did not consistently contain reasons for transactions.

57. Additionally, the reconciled bank balance cards for the Anderson Hew general trust account did not match the journal balance as of February 28, 2018. The reconciled bank balance was \$54,858.60 and the journal balance was \$53,557.35. Further, the reconciled bank balance did not match journal balance as of March 31, 2018. The reconciled bank balance was \$54,228.60 and the journal balance was \$52,927.35.

58. Respondent certified on her annual membership fee statements for 2014-2015 to 2017-2018, pertaining to the trust account for the period July 1, 2013

to June 30, 2017, that she maintained her trust accounts in compliance with Chapter 5 of the Rules Regulating The Florida Bar. In fact, respondent's certifications were untrue for each year listed herein.

59. Respondent voluntarily attended and completed The Florida Bar's Trust Accounting Workshop on March 31, 2016.

60. Respondent knew or reasonably should have known that her certifications on her The Florida Bar annual membership fee statements were untrue.

61. Respondent failed to take the necessary steps to ensure her nonlawyer employees and/or independent contractor accountants maintained respondent's various trust account in substantial minimum compliance with the Rules Regulating The Florida Bar.

62. Respondent engaged in a course of conduct during the entire period to time encompassed by the bar's audit where she routinely misappropriated client trust funds for her own benefit and/or for the benefit of her law office.

63. Wherefore, by reason of the foregoing, respondent has violated the following Rules Regulating The Florida Bar:

A. 3-4.3 The standards of professional conduct required of members of the bar are not limited to the observance of rules and avoidance of prohibited acts, and the enumeration of certain categories of misconduct as constituting grounds for

discipline are not all-inclusive nor is the failure to specify any particular act of misconduct be construed as tolerance of the act of misconduct. The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline whether the act is committed in the course of the lawyer's relations as a lawyer or otherwise, whether committed within Florida or outside the state of Florida, and whether the act is a felony or a misdemeanor.

B. 4-1.3 A lawyer shall act with reasonable diligence and promptness in representing a client.

C. 4-1.4(a) A lawyer shall: (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information.

D. 4-1.15 A lawyer shall comply with The Florida Bar Rules Regulating Trust Accounts.

E. 4-1.16(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, 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. The lawyer may retain papers and other property relating to or belonging to the client to the extent permitted by law.

F. 4-5.3(b) (2006) With respect to a nonlawyer employed or retained by or associated with a lawyer or an authorized business entity as defined elsewhere in these Rules Regulating The Florida Bar: (1) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; (2) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and (3) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if: (A) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (B) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

G. 4-5.3(b) (2015) With respect to a nonlawyer employed or retained by or associated with a lawyer or an authorized business entity as defined elsewhere in these Rules Regulating The Florida Bar: (1) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, must make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer; (2) a lawyer having direct supervisory authority over the nonlawyer must make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and (3) a lawyer is responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if the lawyer: (A) orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or (B) is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

H. 4-8.4(a) A lawyer shall not 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.

I. 4-8.4(c) A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, except that it shall not be professional misconduct for a lawyer for a criminal law enforcement agency or regulatory agency to advise others about or to supervise another in an undercover investigation, unless prohibited by law or rule, and it shall not be professional misconduct for a lawyer employed in a capacity other than as a lawyer by a criminal law enforcement agency or regulatory agency to participate in an undercover investigation, unless prohibited by law or rule.

J. 5-1.1(a)(1) (2010) A lawyer shall hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including advances for fees, costs, and expenses, shall be kept in a separate bank or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account. A lawyer may maintain funds belonging to the lawyer in the trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account.

K. 5-1.1(a)(1) (2015) A lawyer must hold in trust, separate from the lawyer's own property, funds and property of clients or third persons that are in a lawyer's possession in connection with a representation. All funds, including

advances for fees, costs, and expenses, must be kept in a separate bank or savings and loan association account maintained in the state where the lawyer's office is situated or elsewhere with the consent of the client or third person and clearly labeled and designated as a trust account except: (A) A lawyer may maintain funds belonging to the lawyer in the lawyer's trust account in an amount no more than is reasonably sufficient to pay bank charges relating to the trust account; and (B) A lawyer may deposit the lawyer's own funds into trust to replenish a shortage in the lawyer's trust account. Any deposits by the lawyer to cover trust account shortages must be no more than the amount of the trust account shortage, but may be less than the amount of the shortage. The lawyer must notify the bar's lawyer regulation department immediately of the shortage in the lawyer's trust account, the cause of the shortage, and the amount of the replenishment of the trust account by the lawyer.

L. 5-1.1(b) (2010) Money or other property entrusted to an attorney for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of an attorney are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over such property upon demand shall be deemed a conversion.

M. 5-1.1(b) (2018) Money or other property entrusted to a lawyer for a specific purpose, including advances for fees, costs, and expenses, is held in trust and must be applied only to that purpose. Money and other property of clients coming into the hands of a lawyer are not subject to counterclaim or setoff for attorney's fees, and a refusal to account for and deliver over the property on demand is conversion.

N. 5-1.1(e) (2010) 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 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.

O. 5-1.1(g)(4) (2010) Lawyers or law firms shall advise the Foundation, at Post Office Box 1553, Orlando, Florida 32802-1553, of the establishment of an IOTA account for funds covered by this rule. Such notice shall include: the IOTA account number as assigned by the eligible institution; the name of the lawyer or law firm on the IOTA account; the eligible institution name; the eligible institution address; and the name and Florida Bar attorney number of the lawyer, or of each

member of The Florida Bar in a law firm, practicing from an office or other business location within the state of Florida that has established the IOTA account.

P. 5-1.2(b) (2012) Records may be maintained in their original format or stored in digital media as long as the copies include all data contained in the original documents and may be produced when required. The following are the minimum trust accounting records that shall be maintained: (1) a separate bank or savings and loan association account or accounts in the name of the lawyer or law firm and clearly labeled and designated as a "trust account."; (2) original or clearly legible copies of deposit slips if the copies include all data on the originals and, in the case of currency or coin, an additional cash receipts book, clearly identifying: the date and source of all trust funds received and the client or matter for which the funds were received; (3) original canceled checks or clearly legible copies of original canceled checks for all funds disbursed from the trust account, all of which must: (A) be numbered consecutively, (B) include all endorsements and all other data and tracking information and (C) clearly identify the client or case by number or name in the memo area of the check; (4) other documentary support for all disbursements and transfers from the trust account, including records of all electronic transfers from client trust accounts, including: (A) the name of the person authorizing the transfer; (B) the name of the recipient; (C) confirmation from the banking institution confirming the number of the trust account from

which money is withdrawn; and (D) the date and time the transfer was completed;

(5) a separate cash receipts and disbursements journal, including columns for receipts, disbursements, transfers, and the account balance, and containing at least:

(A) the identification of the client or matter for which the funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred;

(6) a separate file or ledger with an individual card or page for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance, and containing:

(A) the identification of the client or matter for which trust funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred;

and (7) all bank or savings and loan association statements for all trust accounts.

Q. 5-1.2(b) (2014) Records may be maintained in their original format or stored in digital media as long as the copies include all data contained in the original documents and may be produced when required. The following are the minimum trust accounting records that must be maintained: (1) a separate bank or savings and loan association account or accounts in the name of the lawyer or law

firm and clearly labeled and designated as a "trust account"; (2) original or clearly legible copies of deposit slips if the copies include all data on the originals and, in the case of currency or coin, an additional cash receipts book, clearly identifying the date and source of all trust funds received and the client or matter for which the funds were received; (3) original canceled checks or clearly legible copies of original canceled checks for all funds disbursed from the trust account, all of which must: (A) be numbered consecutively; (B) include all endorsements and all other data and tracking information; and (C) clearly identify the client or case by number or name in the memo area of the check; (4) other documentary support for all disbursements and transfers from the trust account including records of all electronic transfers from client trust accounts, including: (A) the name of the person authorizing the transfer; (B) the name of the recipient; (C) confirmation from the banking institution confirming the number of the trust account from which money is withdrawn; and (D) the date and time the transfer was completed; (5) original or clearly legible digital copies of all records regarding all wire transfers into or out of the trust account, which at a minimum must include the receiving and sending financial institutions' ABA routing numbers and names, and the receiving and sending account holder's name, address and account number. If the receiving financial institution processes through a correspondent or intermediary bank, then the records must include the ABA routing number and

name for the intermediary bank. The wire transfer information must also include the name of the client or matter for which the funds were transferred or received, and the purpose of the wire transfer, (e.g., “payment on invoice 1234” or “John Doe closing”). (6) a separate cash receipts and disbursements journal, including columns for receipts, disbursements, transfers, and the account balance, and containing at least: (A) the identification of the client or matter for which the funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred; (7) a separate file or ledger with an individual card or page for each client or matter, showing all individual receipts, disbursements, or transfers and any unexpended balance, and containing: (A) the identification of the client or matter for which trust funds were received, disbursed, or transferred; (B) the date on which all trust funds were received, disbursed, or transferred; (C) the check number for all disbursements; and (D) the reason for which all trust funds were received, disbursed, or transferred; and (8) all bank or savings and loan association statements for all trust accounts.

R. 5-1.2(c) (2010) The minimum trust accounting procedures that shall be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or

property are as follows: (1) The lawyer shall cause to be made monthly: (A) reconciliations of all trust bank or savings and loan association accounts, disclosing the balance per bank, deposits in transit, outstanding checks identified by date and check number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal; and (B) a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the 2 totals and reasons therefor. (2) At least annually, the lawyer shall prepare a detailed listing identifying the balance of the unexpended trust money held for each client or matter. (3) The above reconciliations, comparisons, and listings shall be retained for at least 6 years. (4) The lawyer or law firm shall authorize, at the time the account is opened, and request any bank or savings and loan association where the lawyer is a signatory on a trust account to notify Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, in the event the account is overdrawn or any trust check is dishonored or returned due to insufficient funds or uncollected funds, absent bank error. (5) The lawyer shall file with The Florida Bar between June 1 and August 15 of each year a trust accounting certificate showing compliance with these rules on a form approved by the board of governors.

S. 5-1.2(d) (2014) The minimum trust accounting procedures that must be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or property are as follows: (1) The lawyer is required to make monthly: (A) reconciliations of all trust bank or savings and loan association accounts, disclosing the balance per bank, deposits in transit, outstanding checks identified by date and check number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal; and (B) a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the 2 totals and reasons for the differences. (2) The lawyer is required to prepare an annual detailed list identifying the balance of the unexpended trust money held for each client or matter. (3) The above reconciliations, comparisons, and listings must be retained for at least 6 years. (4) The lawyer or law firm must authorize, at the time the account is opened, and request any bank or savings and loan association where the lawyer is a signatory on a trust account to notify Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, in the event the account is overdrawn or any trust check is dishonored or returned due to insufficient funds or uncollected funds, absent bank error. (5) The lawyer must file

with The Florida Bar between June 1 and August 15 of each year a trust accounting certificate showing compliance with these rules on a form approved by the board of governors. If the lawyer fails to file the trust accounting certificate, the lawyer will be deemed a delinquent member and ineligible to practice law.

T. 5-1.2(d) (2015) The minimum trust accounting procedures that must be followed by all members of The Florida Bar (when a choice of laws analysis indicates that the laws of Florida apply) who receive or disburse trust money or property are as follows: (1) The lawyer is required to make monthly: (A) reconciliations of all trust bank or savings and loan association accounts, disclosing the balance per bank, deposits in transit, outstanding checks identified by date and check number, and any other items necessary to reconcile the balance per bank with the balance per the checkbook and the cash receipts and disbursements journal; and (B) a comparison between the total of the reconciled balances of all trust accounts and the total of the trust ledger cards or pages, together with specific descriptions of any differences between the 2 totals and reasons for these differences. (2) The lawyer is required to prepare an annual detailed list identifying the balance of the unexpended trust money held for each client or matter. (3) The above reconciliations, comparisons, and listings must be retained for at least 6 years. (4) The lawyer or law firm must authorize, at the time the account is opened, and request any bank or savings and loan association where

the lawyer is a signatory on a trust account to notify Staff Counsel, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, in the event the account is overdrawn or any trust check is dishonored or returned due to insufficient funds or uncollected funds, absent bank error. (5) The lawyer must file with The Florida Bar between June 1 and August 15 of each year a trust accounting certificate showing compliance with these rules on a form approved by the board of governors. If the lawyer fails to file the trust accounting certificate, the lawyer will be deemed a delinquent member and ineligible to practice law.

WHEREFORE, based on the aforementioned facts, the bar asserts the respondent has caused, or is likely to cause, immediate and serious harm to clients and/or the public and that immediate action must be taken for the protection of the respondent's clients and the public. Therefore, pursuant to R. Regulating Fla. Bar 3-5.2, The Florida Bar respectfully requests this court to:

A. Suspend respondent from the practice of law until further order of this court.

B. Order respondent to accept no new clients from the date of this Court's order and to cease representing any clients after 30 days from the date of this Court's order. Within the 30 days from the date of this Court's order, respondent shall wind down all pending matters and shall not initiate any litigation on behalf of clients. Respondent shall withdraw from all representation within 30

days from the date of this Court's order. In addition, respondent shall cease acting as personal representative for any estate, as guardian for any ward, and as trustee for any trust and will withdraw from said representation within thirty days from the date of this court's order and will immediately turn over to any successor the complete financial records of any estate, guardianship or trust upon the successor's appointment.

C. Order respondent to furnish a copy of the suspension order to all clients, opposing counsel and courts before which Elizabeth Jayne Anderson is counsel of record as required by Rule 3-5.1(h) of the Rules of Discipline of The Florida Bar and to furnish Staff Counsel with the requisite affidavit listing all clients, opposing counsel and courts so informed within 30 days after receipt of the court's order.

D. Order respondent to refrain from withdrawing or disbursing any money from any trust account related to respondent's law practice until further order of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8, and to deposit any fees, or other sums received in connection with the practice of law or in connection with the respondent's employment as a personal representative, guardian or trustee, paid to the respondent after issuance of this Court's order of emergency suspension, into a specified trust account from

which withdrawal may only be made in accordance with restrictions imposed by this Court. Further, respondent shall be required to notify bar counsel of The Florida Bar of the receipt and location of said funds within 30 days of the order of emergency suspension.

E. Order respondent to not withdraw any money from any trust account or other financial institution account related to respondent's law practice or transfer any ownership of any real or personal property purchased in whole or in part with funds properly belonging to clients, probate estates for which respondent served as personal representative, guardianship estates for which respondent served as guardian, and trusts for which respondent served as trustee without approval of this court, a judicial referee appointed by this court or by order of the Circuit Court in an inventory attorney proceeding instituted under R. Regulating Fla. Bar 1-3.8.

F. Order respondent to notify, in writing, all banks and financial institutions where the respondent maintains an account related to the practice of law, or related to services rendered as a personal representative of an estate, or related to services rendered as a guardian, or related to services rendered as a trustee, or where respondent maintains an account that contains funds that originated from a probate estate for which respondent was personal representative, guardianship estate for which respondent was guardian, or trust for which respondent was trustee, of the provisions of this Court's order and to provide all the

aforementioned banks and financial institutions with a copy of this Court's order. Further, respondent shall be required to provide Bar Counsel with an affidavit listing each bank or financial institution respondent provided with a copy of said order.

G. Order respondent to immediately comply with and provide all documents and testimony responsive to a subpoena from The Florida Bar for trust account records and any related documents necessary for completion of a trust account audit to be conducted by The Florida Bar.

H. And further to authorize any Referee appointed in these proceedings to determine entitlement to funds in any trust account(s) frozen as a result of an Order entered in this matter.

Respectfully submitted,



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/s/ Joshua E. Doyle
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CERTIFICATE OF SERVICE

I certify that this document has been e-filed with The Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, with a copy provided via email to Respondent's Counsel, Warren William Lindsey, at warren@warrenlindseylaw.com; and that a copy has been furnished by United States Mail via certified mail No. 7017 1450 0001 4287 3941, return receipt requested to Respondent's Counsel, Warren William Lindsey, whose record bar address is Lindsey & Ferry, P.A., 1150 Louisiana Avenue, Suite 2, Winter Park, Florida 32789-2354 and via email to Carrie Constance Lee, Bar Counsel, 1000 Legion Place, Suite 1625, Orlando, Florida 32801 at clee@floridabar.org, orlandooffice@floridabar.org, on this 3rd day of October, 2018.

Adria E. Quintela

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NOTICE OF DESIGNATION OF PRIMARY EMAIL ADDRESS

PLEASE TAKE NOTICE that bar counsel in this matter is Carrie Constance Lee, Bar Counsel, whose address, telephone number and primary email address are The Florida Bar, Orlando Branch Office, The Gateway Center, 1000 Legion Place, Suite 1625, Orlando, Florida 32801-1050, (407) 425-5424 and clee@flabar.org, orlandooffice@floridabar.org. Respondent need not address pleadings, correspondence, etc. in this matter to anyone other than bar counsel and to Adria E. Quintela, Staff Counsel, The Florida Bar, Lakeshore Plaza II, Suite 130, 1300 Concord Terrace, Sunrise, Florida 33323, aquintel@floridabar.org.

MANDATORY ANSWER NOTICE

RULE 3-5.2(a), RULES OF DISCIPLINE, EFFECTIVE JULY 1, 2012,
2004, PROVIDES THAT A RESPONDENT SHALL ANSWER A COMPLAINT.