





STATE OF MISSOURI – SCT.:

*I, Betsy AuBuchon, Clerk of the Supreme Court of Missouri, do hereby certify that the foregoing is a true copy of the order of said court, entered on the 17 day of March, 2020, as fully as the same appears of record in my office.*

IN TESTIMONY WHEREOF, *I have hereunto set my hand and affixed the seal of said Supreme Court. Done at office in the City of Jefferson, State aforesaid, this 17<sup>th</sup> day of March, 2020.*



*Betsy AuBuchon*, Clerk

*Cynthia Z. Twale*, Deputy Clerk



IN THE SUPREME COURT OF MISSOURI  
EN BANC

IN RE: )  
 )  
KRISTY LYNN RIDINGS, ) Supreme Court SC98230  
 )  
Respondent. )

**INFORMANT'S MOTION TO SUBMIT THE CASE ON THE RECORD**

COME NOW Informant Chief Disciplinary Counsel in the above captioned matter and requests that the case be submitted on the record without oral argument. In support of the request, Informant states as follows:

1. This attorney discipline case is set for oral argument before the Court on Tuesday, March 3, 2020.
2. Respondent's brief was initially due on January 9, 2020. On that date, Respondent filed a Motion for Extension of Time to File her Brief until January 29, 2020. The Court sustained the motion.
3. To date, Respondent has failed to file a brief in this matter.
4. Informant filed the Information in this matter on May 10, 2019 regarding Respondent's alleged misuse of her client trust account and misappropriation of client funds in violation of Rules 4-1.15, 4-5.3 and 4-8.4(c) of the Rules of Professional Conduct.
5. Respondent admitted all of the allegations of the Information.
6. The Disciplinary Hearing Panel appointed in this matter held a hearing on September 5, 2019. Respondent appeared and participated in the hearing.



7. The Panel issued its decision in the matter on September 25, 2019 finding that Respondent violated the rules charged in the Information and recommending that Respondent be disbarred from the practice of law in Missouri. Informant accepted the Panel's recommendation. Respondent rejected the Panel's recommendation.

8. Informant timely filed its brief in this Court on December 20, 2019.

9. Respondent's failure to file a brief estops her from arguing before the Court on March 3, 2020. A complete record of the DHP proceedings has been filed with the Court and Respondent has already been given a full opportunity to contest and offer evidence and to explain her theories and defenses.

10. Informant is willing to forego oral argument in order to move the case toward resolution.

WHEREFORE, Informant asks this Court to submit this case on the record without oral argument

Respectfully submitted,

OFFICE OF  
CHIEF DISCIPLINARY COUNSEL



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**INFORMANT**



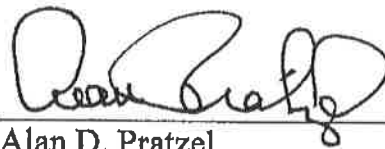


**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been sent to Respondent via the Missouri Supreme Court electronic filing system and by First Class mail, postage prepaid, on this 3<sup>rd</sup> of February, 2020, to:

Kristy Lynn Ridings  
1015 Locust Street, Suite 915  
St. Louis, MO 63101

**Respondent**



Alan D. Pratzel



**IN THE SUPREME COURT  
STATE OF MISSOURI**

**IN RE:**

**KRISTY LYNN RIDINGS**  
1015 Locust Street, Suite 914  
St. Louis, MO 63101-1323

Missouri Bar No. 51133

Respondent.

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**Supreme Court No. SC98230**

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**INFORMANT'S BRIEF**

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**TABLE OF CONTENTS**

COVER PAGE ..... 1

TABLE OF CONTENTS ..... 2

---

TABLE OF AUTHORITIES ..... 3

STATEMENT OF JURISDICTION ..... 5

STATEMENT OF FACTS ..... 6

POINTS RELIED ON

    I. .... 24

    II. .... 27

    III. .... 28

    IV. .... 29

ARGUMENT

    I. .... 30

    II. .... 36

    III. .... 37

    IV. .... 43

CONCLUSION ..... 48

CERTIFICATE OF SERVICE ..... 48

CERTIFICATION OF COMPLIANCE: RULE 84.06(c) ..... 49

## TABLE OF AUTHORITIES

### CASES

<i>Black v. California State Bar</i> , 368 P.2d 118 (Cal. 1962) .....	25, 34
<i>In re Abbey</i> , 169 A.3d 865 (D.C. 2017) .....	28, 39, 41
<i>In re Ahaghotu</i> , 75 A.3d 251 (D. C. 2013). .....	41
<i>In re Anderson</i> , 778 A.2d 330 (D.C. 2001). .....	40
<i>In re Belz</i> , 258 S.W.3d 38 (Mo. banc 2008); .....	45
<i>In re Choroszej</i> , 624 A.2d 434 (D.C. 1992) .....	40
<i>In re Cloud</i> , 939 A.2d 653 (D.C. 2008) .....	39, 41
<i>In re Ehler</i> , 319 S.W.3d 442 (Mo. banc 2010) .....	28, 29, 39, 43, 44
<i>In re Farris</i> , 472 S.W.3d 549 (Mo. banc 2015) .....	28, 29, 37, 38, 44, 45
<i>In re Hamilton</i> , 118 A.3d 958 (Md. 2015) .....	39
<i>In re McMillin</i> , 521 S.W.3d 604 (Mo. banc 2017), .....	29, 45
<i>In re Mentrup</i> , 665 S.W.2d 324 (Mo. banc 1984) .....	45
<i>In re Mungin</i> , 96 A.3d 122 (Md. 2014) .....	39
<i>In re Nave</i> , 180 A.3d 86 (D.C. 2018) .....	41
<i>In re Robinson</i> , 74 A.3d 688 (D.C. 2013) .....	40
<i>In re Schuessler</i> , 578 S.W.3d 762 (Mo. banc 2019) .....	25, 31
<i>In re Shelhorse</i> , 147 S.W.3d 79 (Mo. banc 2004) .....	25, 31
<i>In re Simmerly</i> , 285 P.3d 838 (Wash. 2012) .....	45
<i>In re Storment</i> , 873 S.W.2d 227 (Mo. banc 1994) .....	43
<i>In re Wiles</i> , 107 S.W.3d 228 (Mo. banc 2003) .....	43

*In re Zakrzewski*, 560 N.W.2d 150 (Neb. 1997). ..... 44

*Matter of Mendell*, 693 S.W.2d 76 (Mo. banc 1985) ..... 45

*United States v. Clements*, 73 F.3d 1330 (5<sup>th</sup> Cir. 1996)..... 41

**OTHER AUTHORITIES**

ABA Standard 4.11 ..... 44

ABA Standard 9.22 ..... 46

ABA Standard 9.32 ..... 46

ABA Standards for Imposing Lawyer Sanctions ..... 29, 43

**RULES**

RULE 4-1.15 ..... 24, 25, 29, 30, 42, 48

RULE 4-1.15(a)(4) ..... 24, 25, 30, 32, 48

RULE 4-1.15(a)(5) ..... 24, 25, 30, 32, 48

RULE 4-1.15(a)(7) ..... 24, 26, 30, 32, 48

RULE 4-1.15(b)..... 25, 26, 30, 33, 48

RULE 4-1.15(c)..... 25, 26, 30, 33, 48

RULE 4-1.15(d)..... 25, 26, 31, 34, 38, 48

RULE 4-1.15(f) ..... 25, 26, 31, 34, 35, 48

RULE 4-5.3 ..... 27, 29, 36, 48

RULE 4-8.4(c)..... 28, 29, 37, 38, 39, 45, 48

## **STATEMENT OF JURISDICTION**

This action is one in which Informant, the Chief Disciplinary Counsel, is seeking to discipline an attorney licensed in the State of Missouri for violations of the Missouri Rules of Professional Conduct. Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040, RSMo 2016.

## STATEMENT OF FACTS

### 1. Information and Disciplinary Hearing

The Informant filed an Information with the required Notice on May 10, 2019 regarding Respondent, Kristin Ridings' misuse of her client Trust Account and client funds in violation of Rules 4-1.15(a-d), 4-1.15(f), 4-5.3, and 4-8.4(c). **App. 4-27.**<sup>1</sup> Respondent admitted all of the allegations in the Information. **App. 28.**

The disciplinary hearing was conducted on September 5, 2019. **App. 34.** Kelly Dillon ("Dillon"), the Investigative Examiner/Paralegal for the OCDC, was the primary witness. All exhibits, including Respondent's prior discipline regarding safekeeping of client property, outstanding court judgments, limited documentation provided, bank records, sworn statement, and Dillon's spreadsheets and summaries were admitted into evidence. **App. 71.** The Disciplinary Hearing Panel recommended disbarment. **App. 468-480.**

Respondent was licensed on September 17, 2003. Respondent's license is in good standing. **App. 4; 28.** Respondent has her own firm in St. Louis, Missouri: The Ridings Group, LLC. Respondent limits her practice to criminal defense. **App. 299.** During the relevant time, Respondent was a solo practitioner and responsible for the law firm's maintenance and administration of the Trust Account and Operating Account. **App. 62-**

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<sup>1</sup> Citations to the Appendix are denoted by page reference followed by a description of the cited material if it's not obvious from the preceding text, for example, "**App. A\_** (DHP Decision)."



63. For a short period of the relevant time, Respondent had an office manager but had to let her go because of the expense. **App. 307.**

As a result of an overdraft in Respondent's Trust Account, Dillon began her investigation and audit.

The undisputed evidence established that Respondent intentionally and recklessly misused her Trust Account by commingling personal and client funds and misappropriating her client's money for personal and business purposes.

## **2. Respondent's Prior Discipline Regarding Safekeeping of Property**

Respondent previously accepted two Admonitions concerning the mishandling of her Trust Account and client funds.

On April 13, 2010, Respondent was admonished for failing to reconcile her Trust Account, and for depositing advance fee payments received from clients by credit card into her Operating Account. Additionally, Respondent's former secretary was transferring client funds to and from the Trust Account without proper supervision. A combination of those poor recordkeeping practices created multiple overdrafts to her Trust Account. **App. 47; 135-144.** In that April 2010 admonition, Respondent was provided guidance on Rule 4-1.15, counseled to study the Missouri Bar/IOLTA Trust Account Manual, and urged to sign up for the upcoming webinar: Fundamentals of Trust Accounting. **App. 135-144 (Ex. 3).**

On May 27, 2010, Respondent was admonished for failing to deposit client funds to her Trust Account prior to writing a check on behalf of that client and drawing on those funds. In the admonition, Respondent was educated on the requirement of maintaining

accurate records, including client ledgers, a general ledger, reconciled bank statements, and copies of any checks and deposited items necessary. Additionally, Respondent was provided a copy of Formal Opinion 128 issued by the Missouri Supreme Court Advisory Committee for her review. **App. 53-54; 135-144 (Ex. 3).**

With regard to the suggested training, the OCDC has no record of Respondent's having attended any webinar or in-person CLE regarding the fundamentals of trust accounting prior to the filing of the Information herein. **App. 54.**

### **3. Riding's Outstanding Judgments**

Respondent has a large number of outstanding judgments against her and her law firm:

- Case No. 1022-TJ01058 Division of Employment Security  
\$3,399.96 judgment entered on 5/21/10.
- Case No. 1022-TJ01973 Division of Employment Security  
\$1,778.90 judgment entered on 9/23/10.
- Case No. 1022-TJ02303 Division of Employment Security  
\$149.49 judgment entered on 11/12/10.
- Case No. 10SL-AC39670 Metropolitan St. Louis Sewer  
District \$2,406.08 judgment entered on 12/16/10.
- Case No. 11SL-TJ00323 Metropolitan St. Louis Sewer  
District \$2,406.08 judgment entered on 1/3/11.

- Case No. 1122TJ00590 Division of Employment Security \$470.00 judgment entered on 2/17/11.
- Case No. 11SL-SC00126 Sterling Bates \$850.00 judgment entered on 3/22/11.
- Case No. 1122-TJ01137 Division of Employment Security \$288.47 judgment entered on 4/28/11.
- Case No. 1122-TJ02292 Division of Employment Security \$890.27 judgment entered on 8/29/11.
- Case No. 1122-AC186629 City of St. Louis \$3,389.65 judgment entered on 2/24/12.
- Case No. 12SL-AC04264 Jamestown Homeowners Association \$2,881.31 judgment entered on 3/19/12.
- Case No. 1222-TJ02084 Division of Employment Security \$1,842.97 judgment entered on 6/11/12.
- Case No. 1222-AC16051 Balke Brown Associates, Inc. \$31,238.39 judgment entered on 2/14/13.
- Case No. 13SL-TJ01729 Division of Employment Security \$483.49 judgment entered on 6/25/16.
- Case No. 13SL-TJ03196 Division of Employment Security \$278.79 judgment entered on 12/13/13.

- Case No. 14SL-MC 15436 Department of Revenue  
\$3,823.32 judgment entered on 10/31/14.
- Case No. 17SL-AC24718 Metropolitan St. Louis Sewer  
District \$3,579.34 judgment entered on 10/26/17.

**App. 145-182 (Ex. 4).**

Dillon explained that judgment creditors will look for sources of income from a debtor. In the case of a debtor-lawyer, a lawyer's funds in the client Trust Account make the Trust Account a target for garnishment. Consequently, client money, also in the Trust Account, is put at jeopardy. **App. 52; 56-57.**

**4. Overdraft of Respondent's Trust Account**

At all relevant times, Respondent maintained and used the following accounts with Bank of America: a client Trust Account, Account No. XXXXXXXXX0451, in the account name of Ridings Group-IOLTA ("Trust Account"); and a law firm Operating Account, Account NO. XXXXXXXXX8496, in the account name of Ridings Group-Operating ("Operating Account").

On January 31, 2018, Bank of America, in compliance with the regulatory requirement set forth in amended Supreme Court Rule 4-1.15 and the related Advisory Committee Regulation effective January 1, 2010, sent an overdraft notification to the OCDC in relation to the Trust Account. The genesis of the overdraft was the deposit of a \$4,500.00 third party check payable to her client, Richard Grayer, on January 24, 2018. Respondent began making transfers from the Trust Account to the Operating Account over

the course of the next few days, and then on January 29, 2018, the \$4,500.00 (Grayer) check was returned insufficient, creating a \$3,421.00 overdraft. **App. 64-65.**

### **5. Investigation by the OCDC**

Once the OCDC was notified of the overdraft, Dillon began her investigation. Dillon contacted Respondent requesting information regarding the overdraft. According to Dillon, “in the beginning, we kind of struggled.” **App. 65.** Dillon was required to send Respondent multiple letters in order to obtain an initial response. Dillon granted Respondent a requested extension, but still received no response. Dillon notified Respondent that if she did not cooperate, she could be charged with a failure to cooperate in addition to any other professional misconduct. **App. 65.**

Respondent provided some background documentation regarding her Trust Account but was unable to produce all of the documentation requested by Dillon. **App. 70.** Subsequently, Dillon subpoenaed the bank records for both accounts for a period from January 1, 2016 to January 31, 2018. **App. 70.** Respondent also sat for a sworn statement. **App. 295-363.**

### **6. Lack of Trust Account Documentation and Recordkeeping**

Due to the lack of documentation and information from Respondent, Dillon was unable to complete a full audit of Respondent’s Trust Account. Respondent did not maintain complete records reflecting the activity in the Trust Account, the source of funds being deposited into the Trust Account; she had only limited documentation providing the support and explanation for the withdrawal or disbursement of funds from the Trust

Account. She had no documentation reflecting receipt and disbursement of client funds.

**App. 59-60.** Specifically, and as admitted by Respondent in her Answer:

- Respondent did not maintain a general ledger for the Trust Account.
- Respondent failed to reconcile the Trust Account on a timely basis.
- Respondent failed to maintain complete records of deposits into the Trust Account sufficiently detailed to identify each item.
- Respondent failed to reconcile the Trust Account reasonably promptly each time an official statement from Bank of America was provided or available.
- Respondent failed to keep complete records of the Trust Account that expressly reflect the date, amount, source, and explanation of all receipts, withdrawals, and disbursements of the funds or other property of clients or other parties.
- Respondent failed to keep accurate records of disbursement, failed to keep individual client ledgers, and failed to keep accurate billing records concerning attorney's fees earned.

**App. 4-11; 28.**

**7. Improper Use of Trust Account and Client Funds With Improper Motive**

Despite a lack of complete records, the available records demonstrated that both Respondent's Trust and Operating Accounts balances at the beginning and end of the audited period were negative. Specifically, the beginning balance on January 1, 2016 in the Trust Account was (\$3,421.04) and in the Operating Account was (\$2,058.48). **App. 72-73.**

Based on the Informant's audit of Respondent's accounts, Respondent was depositing personal money into the Trust Account so she could use it as a personal/business account. Dillon testified that it was her belief that Respondent was using the Trust Account because she did not have the money to keep the Operating Account current. **App. 77.** "That is where [Respondent'] dishonest motives" were apparent. The bank was certainly floating her on many occasions – you'll see the red in that Operating Account – while she was using the Trust Account for personal purposes." **App. 77.** Respondent's improper money handling included commingling and misappropriating client funds, described by Dillon here:

You know, we had very few records from her, and most of it was what she had provided in that ledger, where we just kind of took her word for what she you know, when she started representing the client, and when she concluded representation, which really didn't give us an idea of when that was earned. But there were, you know, a few invoices. So, for the most part, there were some instances where we saw refunds to client(s) from the client

trust account, and were able to piece together both at the sworn statement and other information that showed that, when the client deposit came in, and when it was refunded, and that in between that time, she made payments for personal expenses and had depleted those client funds before they were refunded from the trust account, and had used those funds for personal purposes. So, while she may have believed she was only drawing on her own funds in the trust account, it was clear that she was not keeping track of which funds were hers and which funds were the client's, and she was in fact spending client money when she made those personal payments.

**App. 78-79.**

In order to keep up with the number and amount of her personal expenses, Respondent deposited earned fees and personal funds to the Trust Account on the following occasions in the following amounts:

- February 17, 2016, Respondent deposited personal checks for \$4,940.10 and \$13,333.33.
- May 4, 2016, Respondent transferred \$1,500.00 from the Operating Account.
- May 9, 2016, Respondent transferred \$2,000.00 from the Operating Account.
- August 5, 2016 and September 12, 2016, Respondent transferred \$500.00 each time from the Operating Account.



- September 12, 2016, Respondent deposited personal checks from Anthem BlueCross for \$257.63 and \$166.26.
- December 22, 2016, Respondent transferred \$4,500.00 from the Operating Account.
- December 29, 2016, Respondent deposited \$62.50 for her daughter's basketball team for fees.
- January 5, 2017, Respondent deposited a \$1,000.00 bond refund payable to her, which was her property.
- April 19, 2017, Respondent deposited \$5,111.11 for an earned legal fee from a settled case.
- April 27, 2017, Respondent deposited \$400.00 from a subtenant's rent.
- April 28, 2017, Respondent transferred \$750.00 and \$400.00 from the Operating Account.
- May 12, 2017, Respondent deposited \$245.00 for a subtenant's rent.
- May 15, 2017, Respondent transferred \$960.00 from the Operating Account.
- May 15, 2017, Respondent deposited a non-client item from a returned check for insufficient funds.

- May 16, 2017, Respondent transferred \$350.00 from the Operating Account.
- May 25, 2017, Respondent deposited \$360.00 from a subtenant's rent.
- June 2, 2017, Respondent deposited \$55.00 from a non-client.
- June 5, 2017, Respondent deposited \$100.00 for a subtenant's rent.
- June 7, 2017, Respondent deposited \$55.00 from a non-client.
- July 10, 2017, Respondent deposited \$100.00 for a subtenant's rent.
- August 9, 2017, Respondent transferred \$2,000.00 from the Operating Account.
- August 23, 2017, Respondent deposited \$1,900.00 and \$644.03 for an earned legal fee from a settled case.
- September 7, 2017, Respondent deposited \$107.58 from Anthem BlueCross.
- September 11, 2017, Respondent deposited \$150.00 for a subtenant's rent.

- September 28, 2017, Respondent deposited \$2,111.11 for an earned legal fee from a settled case.
- October 2, 2017, Respondent deposited \$550.00 for a subtenant's rent.
- October 4, 2017, Respondent deposited \$2,777.77 for an earned legal fee from a settled case.
- October 30, 2017, Respondent deposited \$222.22 for an earned legal fee from a settled case.
- December 1, 2017, Respondent deposited \$2,055.55 and \$1,333.33 for earned legal fees from two settled cases.
- December 27, 2017, Respondent deposited \$45.00, \$45.00, \$35.00, \$35.00, and \$35.00 for a holiday soccer tournament.
- January 19, 2018, Respondent deposited \$1,000.00 from a bond repayment which was her earned legal fee.
- January 22, 2018, Respondent deposited \$400.00 for a subtenant's rent.

**App. 183-200 (Ex. 5).**

Using the funds from the Trust Account, the financial records demonstrated that during two years, Respondent paid her monthly rent from the Trust Account on 17

occasions. **App. 76-77; 465.** On 14 of those occasions, Respondent Operating Account balance was negative. **App. 203-394.**

In addition to her rent payments, Respondent paid personal and firm expenses from the Trust Account, including the following payments:

<b>Date</b>	<b>Expenses Paid To</b>	<b>Amount</b>	<b>Operating Account Balance</b>
2/28/17	Clerk of the Supreme Court	\$5.00	\$488.85
4/20/17	ARDC	\$371.00	\$515.22
6/2/17	Melissa Adkins (basketball)	\$55.00	(\$1,420.61)
6/7/17	Nichole Guerrero (basketball)	\$55.00	(\$1,122.51)
7/17/17	Sprint	\$257.56	(\$1,324.32)
7/18/17	Sprint	\$257.55	(\$1,324.32)
8/4/17	Ocwen Loan Service	\$743.33	(\$1,478.32)
9/11/17	Sprint	\$295.87	(\$1,425.28)
9/25/17	Rachel Henniger	\$150.00	(\$1,447.84)
9/27/17	Sprint	\$282.28	(\$1,447.84)
10/5/17	CDC-STLCC (Daycare)	\$1,000.00	(\$1,546.74)
10/27/17	CDC-STLCC (Daycare)	\$700.00	(\$1,546.74)
11/10/17	Sprint	\$331.24	(\$1,595.74)
1/23/18	Sprint	\$522.92	(\$1,326.10)

**App. 8-9; 28; 203-394 (Ex. 6).**

In addition to the listed payments, Respondent made 49 cash withdrawals from the Trust Account with no documentation - between January 1, 2016 and January 29, 2018; those cash withdrawals totaled approximately \$43,000.00. **App. 183-200 (Ex. 5).**

In addition to the personal deposits/earned fees put in the Trust Account and the personal/business expenses paid and cash withdrawals from the Trust Account, there were two instances where Respondent refunded a client's money from the Trust Account, notwithstanding the fact that the client's money was no longer in the Trust Account.

In the first instance, Respondent indicated that there was a \$3,500.00 fee associated with client, Perry, on which Perry was making payments. The last payment Respondent received was \$1,646.50 by check. There was no record of that check having been deposited in either the Trust Account or the Operating Account. Moreover, when Respondent wrote a refund check for \$686.50 from the Trust Account to Perry, it was drawn from money belonging to others. **App. 80-83.**

In the second instance, Respondent's client, Rucker, was owed a \$1,496.00 refund from a bond refund. Respondent deposited the bond refund in the Trust Account but proceeded to use it for personal expenses. When Respondent later refunded Rucker's bond money from the Trust Account, it was drawn from money belonging to others. **App. 83-85.**

Respondent's only explanation for utilizing the Trust Account for personal expenses was that it just seemed easier to disburse monies from the Trust Account than to move it to the Operating Account. **App. 76.**

In her testimony, Dillon asserted that Respondent's conduct was dishonest. According to Dillon, Respondent wasn't making payments from the Trust Account simply out of convenience. She was either unable, or didn't want to make the bank whole, in the Operating Account to bring it up to a zero balance, so she could appropriately make payments from that account.

**App. 95.**

**8. Respondent Testimony at the Disciplinary Hearing**

Respondent chose not to cross-examine Dillon. Respondent did not present evidence contradicting the already admitted allegations in the Information.

Respondent spoke of some health-related problems with her and her children, yet never pled an affirmative defense nor presented evidence as to how such problems caused her to misuse the Trust Account or her clients' funds. Dillon pointed out, "[Respondent] was certainly [accepting] a considerable amount of client money during the [time period she claimed to be having personal problems]." **App. 10; 87.**

**9. The Disciplinary Hearing Panel's Decision**

On September 25, 2019, the hearing panel issued its decision. The panel found all of the factual allegations in the Information undisputed and true.

It concluded that Respondent violated Rule 4-1.15(a)(4) by failing to maintain complete records of deposit into the Trust Account sufficiently detailed to identify each item; Rule 4-1.15(a)(5) by withdrawing money from the Trust Account in cash; Rule 4-1.15(a)(7) by failing to reconcile the Trust

Account reasonable promptly each time an official statement from Bank of America was provided or available, Rules 4-1.15(b) and (c) by commingling personal funds and client funds in the Trust Account and by using Trust Account funds to pay for personal and/or law firm expenses; Rule 4-1.15(d) by failing to keep complete records of the Trust Account that expressly reflect the date, amount, source, and explanation for all receipts, withdrawals, and disbursements of the funds or other property of clients or other parties; Rule 4-1.15(f) by failing to keep accurate records of disbursement, failing to keep individual client ledgers, failing to keep accurate billing records concerning attorney's fees earned; Rule 4-5.3 by failing to make reasonable efforts to ensure that her office manager or assistant's conduct in handling the Trust and Operating Accounts were compatible with the professional obligations of the lawyer; and Rule 4-8.4(c) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation when she knowingly paid personal or office operating expenses from her Trust Account knowing that her Operating Account was overdrawn and the funds were not available.

**App. 468-480.**

The panel noted that despite the lack of complete records, the audit performed by the OCDC and Dillon's testimony at the hearing showed multiple occasions when the Trust Account funds were used to pay for personal expenses and/or law firm operating expenses. At times, those expenses were paid out of the Trust Account while the Operating Account had a negative balance. Moreover, the panel found that the number of times personal or law firm expenses were paid out of the Trust Account from March to December 2017 did not indicate an accidental or isolated occurrence, but rather showed a continuous pattern. The time period also coincided with more than ten occasions of making cash withdrawals out of the Trust Account. Consequently, citing *In re Farris*, 472 S.W.3d 549, 561 (Mo. banc 2015), the panel found: "The failure to comply with Rule 1.15(d) must give rise to an inference of knowledge, particularly when the attorney tries to defend a charge of misappropriating trust account funds on grounds that the required documents plainly would support or refute had the attorney kept them."

Furthermore, the panel held that the personal and/or law firm expenses paid out of the Trust Account appeared to have been done in a manner that would have reduced amounts that should have been held by certain clients to less than what should have been held. The Perry and Rucker payments were not made from funds belonging to those clients and in temporal proximity to personal and law firm expenses that were paid out of the Trust Account by Respondent. Consequently, the panel held that: "When an attorney deposits the client funds into an account used by the attorney for his own purposes, any disbursement from the account for purposes other than those of the client's interests has all of the characteristics of misappropriation, particularly when the disbursement reduces the



balance of the account to an amount less than the amount of the funds being held by the attorney for the client.” *In re McMillin*, 521 S.W.3d 604, 608 (Mo. banc 2017) (citing *In re Schaeffer*, 824 S.W.2d 1, 5 (Mo. banc 1992). “Misappropriation of client funds necessarily involves deceit and misrepresentation.” *Id.* (citing *In re Ehler*, 319 S.W.3d 442, 451 (Mo. banc 2010). “Disbarment constitutes the baseline sanction for misappropriation.” *In re Farris*, 472 S.W.3d at 52 (citing *In re Belz*, 258 S.W.3d 38, 42 (Mo. banc 2008).

For the sanction analysis, the panel found Respondent’s prior safekeeping of client property Admonitions as an aggravating factor. The panel found no mitigating factors, specifically mentioning that Respondent failed to raise any issue of mental disorder or provide any medical expert testimony at the hearing. The panel recommended disbarment. **App. 468-480.**

On October 2, 2019, the Informant accepted the written decision of the panel. On October 28, 2019, Respondent rejected the written decision of the panel.

**POINTS RELIED ON**

**I.**

**THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT'S  
LICENSE BECAUSE RESPONDENT VIOLATED RULE 4-1.15 IN  
THAT:**

- 1. RESPONDENT FAILED TO MAINTAIN  
COMPLETE RECORDS OF DEPOSIT INTO THE  
TRUST ACCOUNT SUFFICIENTLY DETAILED TO  
IDENTIFY EACH ITEM IN VIOLATION  
SUBSECTION (a)(4);**
- 2. RESPONDENT WITHDREW MONEY IN CASH  
FROM THE TRUST ACCOUNT IN VIOLATION OF  
SUBSECTION (a)(5);**
- 3. RESPONDENT FAILED TO RECONCILE THE  
TRUST ACCOUNT REASONABLY PROMPTLY  
EACH TIME AN OFFICIAL STATEMENT FROM  
THE BANK WAS PROVIDED OR AVAILABLE IN  
VIOLATION OF SUBSECTION (a)(7);**
- 4. RESPONDENT COMMINGLED PERSONAL FUNDS  
AND CLIENT FUNDS IN THE TRUST ACCOUNT  
AND USED TRUST ACCOUNT FUNDS TO PAY FOR  
PERSONAL EXPENSES AND/OR LAW FIRM**

**EXPENSES IN VIOLATION OF SUBSECTION (b)**

**AND (c);**

**5. RESPONDENT FAILED TO KEEP COMPLETE RECORDS OF THE TRUST ACCOUNT THAT EXPRESSLY REFLECT THE DATE, AMOUNT, SOURCE, AND EXPLANATION FOR ALL RECEIPTS, WITHDRAWALS, AND DISBURSEMENTS OF THE FUNDS OR OTHER PROPERTY OF CLIENTS OR OTHER PARTIES IN VIOLATION OF SUBSECTION (d); AND**

**6. RESPONDENT FAILED TO KEEP ACCURATE RECORDS OF DISBURSEMENT, FAILED TO KEEP INDIVIDUAL CLIENT LEDGERS, AND FAILED TO KEEP ACCURATE BILLING RECORDS CONCERNING ATTORNEY'S FEES EARNED IN VIOLATION OF SUBSECTION (f).**

*Black v. California State Bar*, 368 P.2d 118 (Cal. 1962)

*In re Schuessler*, 578 S.W.3d 762 (Mo. banc 2019)

*In re Shelhorse*, 147 S.W.3d 79 (Mo. banc 2004)

RULE 4-1.15

RULE 4-1.15(a)(4)

RULE 4-1.15(a)(5)

RULE 4-1.15(a)(7)

RULE 4-1.15(b)

RULE 4-1.15(c)

RULE 4-1.15(d)

RULE 4-1.15(f)

POINTS RELIED ON

II.

THE SUPREME COURT SHOULD DISCIPLINE  
RESPONDENT'S LICENSE BECAUSE RESPONDENT  
VIOLATED RULE 4-5.3 BY FAILING TO MAKE  
REASONABLE EFFORTS TO ENSURE THAT HER OFFICE  
MANAGER'S CONDUCT IN HANDLING TRUST AND  
OPERATING ACCOUNTS WAS COMPATIBLE WITH THE  
PROFESSIONAL OBLIGATIONS OF THE LAWYER.

RULE 4-5.3

**POINT RELIED ON**

**III.**

**THE SUPREME COURT SHOULD DISCIPLINE  
RESPONDENT'S LICENSE BECAUSE RESPONDENT  
VIOLATED RULE 4-8.4(c) IN THAT RESPONDENT  
INTENTIONALLY AND/OR RECKLESSLY COMMINGLED  
AND MISAPPROPRIATED CLIENT FUNDS.**

*In re Abbey*, 169 A.3d 865 (D.C. 2017)

*In re Ehler*, 319 S.W.3d 442 (Mo. banc 2010)

*In re Farris*, 472 S.W.3d 549 (Mo. banc 2015)

RULE 4-8.4(c)

**POINT RELIED ON**

**IV.**

**THE SUPREME COURT SHOULD DISBAR RESPONDENT  
BECAUSE ABA STANDARDS FOR IMPOSING LAWYER  
SANCTIONS, CASE LAW, AND AGGRAVATING FACTORS  
SUGGEST THAT DISBARMENT IS THE APPROPRIATE  
DISCIPLINE.**

*In re Ehler*, 319 S.W.3d 442 (Mo. banc 2010)

*In re Farris*, 472 S.W.3d 549 (Mo. banc 2015)

*In re McMillin*, 521 S.W.3d 604 (Mo. banc 2017)

ABA Standards for Imposing Lawyer Sanctions (1986 ed., as amended 1992)

RULE 4-1.15

RULE 4-5.3

RULE 4-8.4(c)

ARGUMENT

I.

**THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT'S LICENSE  
BECAUSE RESPONDENT VIOLATED RULE 4-1.15 IN THAT:**

1. RESPONDENT FAILED TO MAINTAIN COMPLETE RECORDS OF DEPOSIT INTO THE TRUST ACCOUNT SUFFICIENTLY DETAILED TO IDENTIFY EACH ITEM IN VIOLATION SUBSECTION (a)(4);
2. RESPONDENT WITHDREW MONEY IN CASH FROM THE TRUST ACCOUNT IN VIOLATION OF SUBSECTION (a)(5);
3. RESPONDENT FAILED TO RECONCILE THE TRUST ACCOUNT REASONABLY PROMPTLY EACH TIME AN OFFICIAL STATEMENT FROM THE BANK WAS PROVIDED OR AVAILABLE IN VIOLATION OF SUBSECTION (a)(7);
4. RESPONDENT COMMINGLED PERSONAL FUNDS AND CLIENT FUNDS IN THE TRUST ACCOUNT AND USED TRUST ACCOUNT FUNDS TO PAY FOR PERSONAL EXPENSES AND/OR LAW FIRM EXPENSES IN VIOLATION OF SUBSECTION (b) AND (c);



**5. RESPONDENT FAILED TO KEEP COMPLETE RECORDS OF THE TRUST ACCOUNT THAT EXPRESSLY REFLECT THE DATE, AMOUNT, SOURCE, AND EXPLANATION FOR ALL RECEIPTS, WITHDRAWALS, AND DISBURSEMENTS OF THE FUNDS OR OTHER PROPERTY OF CLIENTS OR OTHER PARTIES IN VIOLATION OF SUBSECTION (d); AND**

**6. RESPONDENT FAILED TO KEEP ACCURATE RECORDS OF DISBURSEMENT, FAILED TO KEEP INDIVIDUAL CLIENT LEDGERS, AND FAILED TO KEEP ACCURATE BILLING RECORDS CONCERNING ATTORNEY'S FEES EARNED IN VIOLATION OF SUBSECTION (f).**

1. The Standard of Review

In matters of attorney discipline, the disciplinary panel's decision is advisory. *In re Schuessler*, 578 S.W.3d 762, 770-771 (Mo. banc 2019). This Court reviews the evidence de novo and reaches its own conclusions of law. *Id.* Professional misconduct is established by a preponderance of the evidence. *Id.* An attorney must comply with the Rules of Professional Conduct as set forth in Supreme Court Rule 4 as a condition of retaining her license. *In re Shelhorse*, 147 S.W.3d 79, 80 (Mo. banc 2004). Violation of the Rules of Professional Conduct by an attorney is grounds for discipline. *Id.*

1. Violation of Subsection (a)(4) of Rule 4-1.15

Rule 4-1.15(a)(4) requires a lawyer to maintain complete records of deposit into the trust account sufficiently detailed to identify each item.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(a)(4). **App. 134.**

Per the evidence, Respondent's recordkeeping was minimal. Respondent did not maintain complete records reflecting the activity in the Trust Account or the source of funds being deposited. **App. 59-70.**

2. Violation of Subsection (a)(5) of Rule 4-1.15

Rule 4-1.15(a)(5) requires withdrawals from the Trust Account shall be made only by check payable to a named payee, and not to cash, or by authorized electronic transfer.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(a)(5). **App. 134.**

Per the evidence, Respondent withdrew \$43,000.00 in cash from her Trust Account during the two year audited period. That amount was the sum of forty-nine cash withdrawals. **App. 203-294.**

3. Violation of Subsection (a)(7) of Rule 4-1.15

Rule 4-1.15(a)(7) requires a reconciliation of the Trust Account reasonably promptly each time an official statement from the financial institution is provided or available.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(a)(7). **App. 134.**

Per the evidence, Respondent failed to reconcile her Trust Account during any of the audited time period. **App. 59-70.**

4. Violation of Subsection (b) and (c) of Rule 4-1.15

Rule 4-1.15(b) states that a lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying financial institution service charges on that account, but only in the amount necessary for that purpose.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(b). **App. 134.**

The undisputed evidence shows that on forty documented occasions, Respondent deposited personal and non-client funds in the Trust Account totaling approximately \$50,000.00. The funds were then used by Respondent for personal or business purposes. **App. 183-200.**

Rule 4-1.15(c) states that a lawyer only 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.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(c). **App. 134.**

Rules 4-1.15(b) and (c) are in place to prevent commingling. Commingling of funds is committed when a client's money is intermingled with that of her lawyer and its separate identity lost. When other people's money is mixed with money belonging to the lawyer, it is in danger of being used for the lawyer's own expenses, as well as vulnerable to claims by the lawyer's creditors. "Complete separation of a client's money from that of the lawyer

is the only way in which proper accounting can be maintained.” *Black v. California State Bar*, 368 P.2d 118, 225-26 (Cal. 1962).

Per the evidence, Respondent’s commingling was especially egregious in light of the large number of outstanding judgments against her and her law firm totaling over \$50,000.00. As Dillon explained, creditors look for sources of income from a debtor. In the case of a lawyer, commingled funds in the client trust account make the Trust Account a target for garnishment by a creditor. Consequently, Respondent’s client money was put at jeopardy.

5. Violation of Subsection (d) of Rule 4-1.15

Rule 4-1.15(d) requires maintenance of complete records of the trust account that expressly reflect the date, amount, source, and explanation for all receipts, withdrawals, and disbursements of the funds or other property of the client or other parties.

Respondent admitted all allegations in the Information including violating Rule 4-1.15(d). **App. 134.**

Per the evidence, Respondent failed to maintain complete records reflecting the activity in the Trust Account and had only limited documentation providing the support and explanation for the withdrawal or disbursement of funds from the Trust Account. **App. 59-70.**

6. Violation of Subsection (f) of Rule 4-1.15

Rule 4-1.15(f) provides that an attorney shall keep complete trust account records. It further provides that complete records shall include, among other items: (1) individual client ledgers, (2) accountings to clients or third persons showing the disbursement of funds

to them or on their behalf, and (3) records of all electronic transfers from client trust accounts.

Respondent admitted all allegations in the Information including violating Rule 4-

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1.15(f). **App. 134.**

Per the evidence, Respondent failed to maintain individual client ledgers, records of disbursement, or accurate billing records concerning attorney's fees earned. **App. 59-70.**

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## ARGUMENT

### II.

**THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT'S LICENSE BECAUSE RESPONDENT VIOLATED RULE 4-5.3 BY FAILING TO MAKE REASONABLE EFFORTS TO ENSURE THAT HER OFFICE MANAGER'S CONDUCT IN HANDLING TRUST AND OPERATING ACCOUNTS WAS COMPATIBLE WITH THE PROFESSIONAL OBLIGATIONS OF THE LAWYER.**

Rule 4-5.3 requires a lawyer having direct supervisory authority over a non-lawyer to make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.

Respondent admitted all allegations in the Information including violating Rule 4-5.3. **App. 134.**

For part of the audited time in question, Riding's employed an office manager. To the extent the office manager participated in failing to maintain Respondent's financial records, commingling client funds with Respondent's personal funds, or misappropriating client funds, Respondent is responsible for the lack of supervision.

## ARGUMENT

### III.

#### **THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT'S LICENSE BECAUSE RESPONDENT VIOLATED RULE 4-8.4(c) IN THAT RESPONDENT INTENTIONALLY AND/OR RECKLESSLY COMMINGLED AND MISAPPROPRIATED CLIENT FUNDS.**

Rule 4-8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

Respondent admitted all allegations in the Information including violating Rule 4-8.4(c). **App. 134.**

#### Commingling

According to Dillon's analysis and reflected by the exhibits, Respondent regularly used the Trust Account as her personal/business account during the audited period while her Operating Account was at a negative balance. **App. 77-79; 95.** Instead of making her Operating Account whole, Respondent hid her assets behind the veil of the Trust Account, commingled with her client' funds. **App. 77-79; 95.**

This Court has held that a lawyer who knowingly commingles his funds with client funds and the balance in the account is negative is engaging in conduct involving deceit and misrepresentation. *In re Farris*, 472 S.W.3d 549, 558 (Mo. banc 2015).

#### Misappropriation

According to Dillon, "[Respondent] was spending client money when she made personal payments." **App. 78-79.** Specifically, in the Perry case, Respondent received but

never deposited installment payments for attorney's fees from Perry. When Respondent refunded some of the attorney's fees, there was no money in the Trust Account from Perry. Respondent either was drawing from her own money or misappropriating other client's money in the Trust Account. **App. 80-83.**

Also, in the Rucker case, Respondent deposited Rucker's bond refund money in the Trust Account. She then misappropriated it by spending the money for her personal or business purposes. When it came time to refund Rucker the bond refund money, Rucker's money was gone. Respondent either was drawing from her own money or misappropriating other client's money in the Trust Account. **App. 83-85.**

Respondent's acts constituted dishonest or deceitful behavior as envisioned by Rule 4-8.4(c).

In *In re Farris*, 472 S.W.3d 549 (Mo. banc 2015), this Court noted:

[O]ne of the twin purposes of Rule 4-1.15(d) is to ensure that an attorney always knows what money is being moved into or out of the trust account and why. The other purpose of Rule 4-1.15(d) is to ensure that, if a problem arises with an attorney's trust account, the OCDC and this Court are not forced to depend on the attorney's self-serving memory and claims that the "did not know."

The Court abandons the purposes of Rule 4-1.15(d) if it allows a lawyer's failure to maintain the required records to work to that attorney's benefit. *To avoid this result, the failure to comply with Rule 4-1.15(d) must give rise to an inference of knowledge, particularly when the attorney tries*



*to defend a charge of misappropriating trust account funds on the grounds that the required documents plainly would support or refute had the attorney kept them.*

***Id.*** at 561 (italics added for emphasis.)

Misappropriation is generally defined in attorney disciplinary cases as “any unauthorized use of client’s funds entrusted to [the lawyer], including not only stealing but also unauthorized temporary use for the lawyer’s own purpose, whether or not he derives any personal gain or benefit therefrom.” *In re Abbey*, 169 A.3d 865, 872 (D.C. 2017). Misappropriation occurs when the balance in the attorney’s trust account falls below the amount due the client or lienholder.

While negligent misappropriation does not involve dishonesty, the intentional or reckless misappropriation of client or third-party funds “is an act infected with deceit and dishonesty.” *In re Hamilton*, 118 A.3d 958, 975 (Md. 2015); *See also In re Ehler*, 319 S.W.3d 442, 451 (Mo. banc 2010) (intentional misappropriation involves deceit); *In re Mungin*, 96 A.3d 122, 133 (Md. 2014) (no violation of Rule 4-8.4(c) when misconduct results from negligence).

Negligent misappropriation is “a good-faith, genuine, or sincere, but erroneous belief that entrusted funds have properly been paid” or “an honest or inadvertent but mistaken belief that entrusted funds have been properly safeguarded.” *In re Abbey*, 169 A.3d at 872. With negligent misappropriation, the attorney treats the entrusted funds “in a way that suggests the unauthorized use was inadvertent.” *In re Cloud*, 939 A.2d 653, 660 (D.C. 2008).

Negligent misappropriation is limited to situations whereby the attorney unintentionally uses client or third-party funds generally in a single instance or during a short period of time. It does not include the systematic and repeated misuse of client or third-party funds. For example, in *In re Robinson*, 74 A.3d 688 (D.C. 2013), the bank where the law firm's operating and trust account funds were held was purchased by another bank. After the purchase, the account numbers for the operating and trust accounts changed. Because of the account number changes, a retainer fee was inadvertently deposited into the operating account instead of the trust account. This subsequently caused two overdrafts to the trust account. The Court found that the attorney had engaged in negligent misappropriation when he overdrew the account. Similarly, in *In re Choroszej*, 624 A.2d 434 (D.C. 1992), the Court found negligent misappropriation when the attorney failed to pay one lienholder. The attorney had recently moved and lost his support staff which contributed to the error.

With reckless or intentional misappropriation, a court's inquiry is to whether the lawyer handled the entrusted funds "in a way that reveals either an intent to treat the funds as the attorney's own or a conscious indifference to the consequences of his behavior for the security of the funds." *In re Anderson*, 778 A.2d 330, 339 (D.C. 2001).

Courts have looked at the following factors when determining whether an attorney acted intentionally or recklessly when failing to pay a client or third party: (1) whether the attorney indiscriminately commingled personal and entrusted funds, (2) whether the attorney failed to track settlement proceeds, (3) whether the attorney failed to reconcile the trust account, (4) whether the attorney indiscriminately moved money between his trust

account and his other accounts, (5) whether there was a pattern and practice of failing to paying clients or lienholders, (6) whether the attorney repaid clients or third parties immediately after discovering the error, and (7) whether the attorney took immediate action to correct problems with his trust accounting practices once the issues were brought to his attention. *In re Abbey*, 169 A.3d at 872; *In re Cloud*, 939 A.2d at 661; *In re Nave*, 180 A.3d 86, 90 (D.C. 2018); *In re Ahaghotu*, 75 A.3d 251, 257 (D. C. 2013).

Respondent's actions meet all the factors for intentional or reckless misappropriation. As laid out in the undisputed facts in this Brief: (1) Respondent routinely commingled client and third-party funds with her own funds; (2) Respondent did not have settlement statements; (3) Respondent did not accurately track when she withdrew her own attorney fees; (4) Respondent never reconciled her Trust Account; (6) Respondent indiscriminately moved money from her Operating Account to her Trust Account without keeping records regarding the transfers; (7) Respondent engaged in a pattern and practice of failing to pay clients their money which should have been held in trust; (8) Respondent misappropriated other client's money in the Trust Account to pay two clients; and (9) Respondent failed to follow proper trust accounting practices even though Informant's staff had urged her to get such training years ago. These factors strongly point to the fact that Respondent either intentionally or recklessly misappropriated client funds and as a result acted in a dishonest and deceitful manner.

Respondent's use of her Trust Account as a means to avoid garnishments cuts against her argument that she was unsophisticated and did not understand the seriousness of these proceedings. *See United States v. Clements*, 73 F.3d 1330 (5<sup>th</sup> Cir. 1996)

(enhancement of defendant's sentence for tax evasion justified because of the use of "sophisticated means" to avoid detection when defendant used cashier's checks to hide funds from IRS). Furthermore, even if Respondent did not understand all the intricacies of Rule 4-1.15, she knew she had an obligation to protect her clients' funds given to her in trust.

## ARGUMENT

### IV.

**THE SUPREME COURT SHOULD DISBAR RESPONDENT  
BECAUSE ABA STANDARDS FOR IMPOSING LAWYER  
SANCTIONS, CASE LAW, AND AGGRAVATING FACTORS  
SUGGEST THAT DISBARMENT IS THE APPROPRIATE  
DISCIPLINE.**

The purpose of attorney disciplinary proceedings is “to protect the public and maintain the integrity of the legal profession.” *In re Ehler*, 319 S.W.3d 442, 451 (Mo. banc 2010). When determining an appropriate sanction for violations of the Rules of Professional Conduct, this Court assesses the gravity of the misconduct, as well as mitigating or aggravating factors that tend to shed light on Respondent's moral and intellectual fitness as an attorney. *In re Wiles*, 107 S.W.3d 228, 229 (Mo. banc 2003).

The Panel recommended that this Court disbar Respondent. Informant agrees that disbarment is warranted under the facts of this case.

Since its decision in *In re Stormont*, 873 S.W.2d 227 (Mo. banc 1994), this Court has consistently turned to the ABA Standards for guidance in deciding what discipline to impose. Per the ABA Standards, when imposing a sanction, a court should consider the: (1) duty violated, (2) lawyer's mental state, (3) potential or actual injury caused by the lawyer's misconduct, and (4) the existence of aggravating or mitigating factors.

When an attorney has committed multiple acts of misconduct, as Respondent has, the ultimate sanction imposed should be at least consistent with the sanction for the most serious instance of misconduct. *In re Ehler* 319 S.W.3d at 451.

The most important ethical duties are those obligations which a lawyer owes to clients. *In re Ehler*, 319 S.W.3d at 451. This includes the safeguarding of client property. ABA Standard 4.11 addresses the failure of an attorney to preserve a client's property. It provides that disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client. "Knowledge" is "the conscious awareness of the nature of attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result." *In re Farris*, 472 S.W.3d 549, 570 (Mo. banc 2015). "Knowledge" when used in the context of determining the appropriate attorney discipline includes misconduct that is reckless. *See In re Zakrzewski*, 560 N.W.2d 150, 156 (Neb. 1997). As discussed in this brief, Respondent knew that she lacked money in her Operating Account. Knowing that no funds were available there, she regularly dipped into the sacred vessel of the client Trust Account, which she regularly replenished with earned attorney's fees and her own funds. Respondent's money, commingled with other clients' money, in the Trust Account became the source of funds for Respondent's personal and business expenses.

Respondent excuse that it just was easier to use the Trust Account for personal expenses demonstrates Riding's contempt for her fiduciary responsibilities.

Thus, the evidence shows that Riding's actions were intentional or reckless and Respondent engaged in the type of dishonest and deceitful conduct covered by Rule 4-8.4(c).

In addition, Riding's actions caused harm to the administration of justice. As the Washington Supreme Court noted in *In re Simmerly*, 285 P.3d 838, 851 (Wash. 2012): [T]he administration of justice, which includes the disciplinary process, is harmed every time a trust account is misused. Trust accounts are essential to the way lawyers conduct their clients' business, and to the extent the public loses trust and confidence in trust accounts, the administration of justice is harmed.

When determining what level of discipline to impose, case law is also instructive. While disbarment is not automatic when there is misappropriation, case law shows that disbarment is the baseline sanction for misappropriation. *In re Mentrup*, 665 S.W.2d 324 (Mo. banc 1984); *In re Belz*, 258 S.W.3d 38 (Mo. banc 2008); *See also Matter of Mendell*, 693 S.W.2d, 76 (Mo. banc 1985). As explained by this Court in *In re McMillin*, 521 S.W.3d 604, 611 (Mo. banc 2017), "there simply is no room in this profession for attorneys who take property held in trust for others and use it as their own."

Although disbarment is the presumptive discipline, this Court also looks at mitigating and aggravating circumstances to see if any of these factors might suggest either increasing or decreasing the level of discipline. Mitigating factors do not serve as a defense to a finding of misconduct, but may justify a downward departure from the presumptively proper discipline. *In re Farris*, 472 S.W.3d at 562.

ABA Standard 9.32 sets forth the following mitigating factors: (1) absence of prior disciplinary records; (2) absence of a dishonest or selfish motive; (3) personal or emotional problems; (4) timely good faith effort to make restitution or to rectify the consequences of disclosure to disciplinary board or cooperative attitude toward the proceedings; (6) inexperience in the practice of law; (7) character or reputation; (8) physical disability; (9) mental disability or chemical dependency when certain conditions are met; (10) delay in disciplinary proceedings; (11) interim rehabilitation; (12) imposition of other penalties or sanctions; (13) remorse; and (14) remoteness of prior offenses.

ABA Standard 9.22 sets forth the following aggravating factors: (1) prior disciplinary offenses; (2) dishonest or selfish motive; (3) pattern of misconduct; (4) multiple offenses; (5) bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency; (6) submission of false evidence, false statements, or other deceptive practices during the disciplinary process; (7) refusal to acknowledge wrongful nature of conduct; (8) vulnerability of victim; (9) substantial experience in the practice of the law; and (10) indifference to making restitution.

There was no evidence of mitigating factors put forth by Respondent at the hearing.

There are many aggravating factors. Respondent received two Admonitions regarding safekeeping of client property, with specific instructions and educational opportunities on proper trust accounting practices. Respondent, however, chose not to take advantage. Present are a pattern of misconduct and multiple offenses. Respondent also has substantial experience in the law as she has been licensed for 15 years.



Respondent tried to avoid paying her and her firm's outstanding judgments by hiding assets behind the veil of the Trust Account. Respondent's judgments do not constitute a violation of the Rules of Professional Conduct per se, but Respondent's regular use of the Trust Account for her personal and business expenses indicates a design to evade garnishments. Her efforts to evade the judgments indicate Respondent's lack of honesty, an aggravating factor. Respondent's lack of honesty puts the public at risk if Respondent is allowed to continue to practice law. The baseline sanction of disbarment is supported by application of these serious aggravating factors.

**CONCLUSION**

For the reasons set forth above, this Court should find that Respondent violated Rules 4-1.15(a)(4), (a)(5), (a)(7), (b), (c), (d), (f); 4-5.3, and 4-8.4(c), and disbar Respondent.

Respectfully submitted,

ALAN D. PRATZEL #29141  
Chief Disciplinary Counsel



By: \_\_\_\_\_

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**ATTORNEYS FOR INFORMANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of December, 2019, a copy of Informant's Brief is being served upon Respondent through the Missouri Supreme Court electronic filing system pursuant to Rule 103.08.




\_\_\_\_\_  
Marc A. Lapp

**CERTIFICATION OF COMPLIANCE: RULE 84.06(c)**

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. The brief was served on Respondent through the Missouri electronic filing system pursuant to Rule 103.08;
3. Complies with the limitations contained in Rule 84.06(b);
4. Contains 8,083 words, according to Microsoft Word, which is the word processing system used to prepare this brief.



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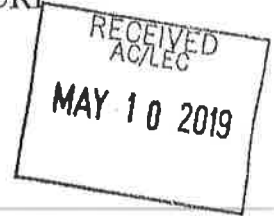
Marc A. Lapp



IN THE SUPREME COURT OF THE STATE OF MISSOURI

IN RE: )  
 )  
KRISTY LYNN RIDINGS )  
 )  
 )  
MBE# 51133 )  
 )  
 )  
Respondent. )

DHP-19-006



**INFORMATION**

COMES NOW the Chief Disciplinary Counsel, pursuant to Missouri Supreme Court Rule 5, and states and alleges as follows:

1. Informant is the Chief Disciplinary Counsel appointed by this Court pursuant to Rule 5.06.
2. Informant has determined, pursuant to Rule 5.11, that probable cause exists to believe that Respondent is guilty of professional misconduct.
3. Respondent is a duly licensed attorney admitted to practice in and before all courts of this State and is a member of the Bar of the State of Missouri. Respondent's Missouri Bar number is 51133 and she has been licensed to practice law in Missouri since September 17, 2003.
4. During all times relevant to the allegations set forth herein Respondent has maintained an office and engaged in the practice of law at 1015 Locust Street, Ste. 914, St. Louis, Missouri 63101. Her primary area of practice is criminal defense.
5. Respondent's license is currently in good standing.



6. Respondent has a previous disciplinary history. She has two admonitions: on or about March 8, 2010 for a violation of Rule 4-1.15 (safekeeping property) and an on or about April 19, 2010 for a violation of Rule 4-1.15 (safekeeping property). As part of her discipline related to admonitions, she was required to take a trust accounting CLE, but has been unable to document attendance in any such CLE.

7. Respondent had outstanding and/or prior financial judgments against her at the time of the misconduct alleged in this Information.

8. At all relevant times herein, Respondent maintained and used the following accounts with Bank of America: a client trust account, Account No. XXXXXXXXXX0451, in the account name of Ridings Group-IOLTA ("Trust Account"); and a law firm operating account, Account No. XXXXXXXXXX8496 in the account name of Ridings Group-Operating ("Operating Account,").

9. Respondent was solely responsible for the law firm's maintenance and administration of the Trust Account and Operating Account.

10. On January 31, 2018, Bank of America, in compliance with the regulatory requirement set forth in amended Supreme Court Rule 4-1.15 and the related Advisory Committee Regulation effective January 1, 2010, sent an overdraft notification to the Office of Chief Disciplinary Counsel ("OCDC") in relation to the Trust Account.

11. OCDC's investigation obtained by subpoena the bank statements and records from Bank of America relating to the Trust Account. Thereafter, the OCDC





investigator reviewed and analyzed the Trust Account bank statements reflecting checks, withdrawals and deposits from January 3, 2017 through January 29, 2018 (“Trust Account Audit”), and the Operating Account bank statements reflecting checks, withdrawals and deposits from January 3, 2017 through March 30, 2018 (“Operating Account Audit”), collectively, the “Accounts Audit”.

12. Additionally, as part of the OCDC investigation, on October 16, 2018, a sworn statement of the Respondent was taken by the OCDC.

13. The Accounts Audit revealed that:

(a) The balance of the Operating Account at the beginning of the subject period was negative \$686.81, and the balance in the Trust Account was \$83.20.

(b) The balance of the Operating Account at the end of the subject period was \$1,3320.52, and the balance in the Trust Account was negative \$3,421.04.

14. Based upon the Trust Account Audit, it was determined that Respondent mishandled the Trust Account and the law firm’s clients’ funds as follows:

(a) Respondent deposited earned legal fees and prepaid expenses paid by the firm's clients into the Trust Account rather than depositing such client funds into the Operating Account;

(b) Respondent did not maintain complete records reflecting the activity in the Trust Account, the source of funds being deposited into the Trust Account, limited documentation providing the support and explanation for the withdrawal or



disbursements of funds from the Trust Account or documentation reflecting receipt of money from the firm's clients and the deposit or disbursement of such funds;

- (c) Respondent did not maintain a general ledger for the Trust Account;
- (d) Respondent failed to reconcile the Trust Account records on a timely basis;
- (e) Respondent paid personal or firm expenses from the proceeds deposited into the Trust Account.

15. The Accounts Audit further revealed the following:

(a) During 2017, Respondent made numerous cash withdrawals from her trust account without documentation of the fee earned and when her Operating Account was a negative balance;

(b) During 2017 and through January 2018, Respondent routinely paid her office rent from her client trust account when the Operating Account was in a negative balance;

(c) Respondent paid personal or firm expenses from the Trust Account, including the following payments:

<b>Date</b>	<b>Expense Paid To</b>	<b>Amount</b>	<b>Operating Account Balance</b>
2/28/17	Clerk of the Supreme Court	5.00	488.85
4/20/17	ARDC	371.00	515.22
6/2/17	Melissa Adkins (basketball)	55.00	(1,420.61)
6/7/17	Nichole Guerrero (basketball)	55.00	(1,122.51)
7/17/17	Sprint	257.56	(1,324.32)
7/18/17	Sprint	257.55	(1,324.32)



8/4/17	Ocwen Loan Service	743.33	(1,478.32)
9/11/11	Sprint	295.87	(1,425.28)
9/25/17	Rachel Henniger	150.00	(1,447.84)
9/27/17	Sprint	282.28	(1,447.84)
10/5/17	CDC-STLCC (Daycare)	1,000.00	(1,531.84)
10/27/17	CDC-STLCC (Daycare)	700.00	(1,546.74)
11/10/17	Sprint	331.24	(1,595.74)
1/23/18	Sprint	522.92	(1,326.10)

16. A review of the Accounts Audit and the Respondent's sworn statements demonstrates that:

(a) Respondent refunded a disputed fee amount to a client (Clarissa Perry) from the Trust Account in August 17, 2017 when the Trust Account was not holding any funds that were allocated to that client's file.

(b) Respondent made electronic transfers from her Trust Account to her Operating Account without proper documentation and record keeping and transfers from her Operating Account to her Trust Account without proper documentation.

(c) Respondent deposited improper funds into her trust account for non-client matters including rent payments from office sharing tenants (Nikki Moody, LLC and Patrick Kilgore), co-counsel fees for earned fees, deposits from her spouse (Rodney Gardner), and a refund from her health insurance company (Anthem).

(d) Respondent failed to keep records of the Trust Account for each individual client that expressly reflect the date, amount, source, and explanation for all receipts, withdrawals, and disbursements of the funds of clients, including the return of bond payments or assignments from courts involving her clients or former clients.



(e) Respondent admitted that these transfers and payments were improper and as mitigating factor stated that the mistakes were the result of her personal health (she was under bedrest due to a pregnancy) and turnover in in her office staff due to financial constraints. However, the Trust Account Audit demonstrates continued deposits of client funds during that period.

17. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(a)(4) by failing to maintain complete records of deposit into the Trust Account sufficiently detailed to identify each item.

18. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(a)(5) by withdrawing money from the Trust Account in cash.

19. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(a)(7) by failing to reconcile the Trust Account reasonably promptly each time an official statement from Bank of America was provided or available.

20. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(b) and (c) by commingling personal funds and client funds in the Trust Account and by using Trust Account funds to pay for personal expenses and/or law firm operating expenses.

21. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(d) by failing to keep





complete records of the Trust Account that expressly reflect the date, amount, source, and explanation for all receipts, withdrawals, and disbursements of the funds or other property of clients or other parties.

22. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(f) by failing to keep accurate records of disbursement, failing to keep individual client ledgers, failed to keep accurate billing records concerning attorney fees earned.

23. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-5.3 by failing to make reasonable efforts to ensure that her office manager or assistant's conduct in handling the Trust and Operating Account were compatible with the professional obligations of the lawyer.

24. As a result of the aforementioned conduct, Respondent is guilty of professional misconduct as a result of violating Rule 4-8.4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation when she knowingly paid personal or office operating expenses from her Trust Account knowing that her Operating Account was overdrawn and the funds were not available.

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



Respectfully submitted,

ALAN D. PRATZEL #29141  
Chief Disciplinary Counsel

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By:

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ATTORNEY FOR INFORMANT

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