

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**



In the Matter of	:	
	:	Board Docket No. 19-BD-__
CHIDINMA M. IWUJI, ESQUIRE,	:	
	:	Disciplinary Docket No. 2018-D007
Respondent,	:	
	:	
A Member of the Bar of the District	:	
of Columbia Court of Appeals.	:	
Bar Number: 478118	:	
Date of Admission: July 8, 2002	:	
	:	

PETITION FOR NEGOTIATED DISCIPLINE

Disciplinary Counsel and Respondent agree to enter into a negotiated discipline pursuant to D.C. Bar Rule XI, § 12.1 and Board Rule 17. Respondent is the subject of the above-referenced investigation by Disciplinary Counsel pursuant to D.C. Bar Rule XI §§ 6(a)(2), 8(a), and Board Rule 2.1.

Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals.

I. Statement of the Nature of the Matter

Disciplinary Counsel docketed this matter for investigation in January 2018, based on two notices that Respondent's IOLTA account at Capital One Bank was overdrawn. Capital One sent the notices after Respondent and her client presented checks for payment before the settlement funds had been credited to the account.

The checks were presented three to four days after Respondent had deposited the settlement check, but before the bank made the funds available. The checks payable to Respondent and her client were subsequently honored and paid by the bank.

As part of its investigation, Disciplinary Counsel subpoenaed and reviewed bank records relating to Respondent's trust account from January 2016 through December 2018, and subpoenaed Respondent's own records for most of this period. Based on its review of the bank records, Respondent's own records, and the information Respondent provided during the investigation, Disciplinary Counsel determined that Respondent had commingled her funds with entrusted funds and failed to maintain complete records of the funds she deposited in and withdrew from the trust account between April 2016 and the end of 2018.

II. Stipulation of Facts and Charges

The conduct and standards that Respondent stipulates to are as follows:

1. From at least January 2016 through December 2018, Respondent maintained an IOLTA or client trust account at Capital One Bank.
2. During this period, Respondent engaged in commingling when she failed to withdraw earned fees or other funds belonging to her that were in the trust account while she continued to deposit advances of unearned fees and other entrusted funds in the trust account.
3. Respondent used funds in the trust account to pay non-client expenses,

including the school fees of her administrative assistant. When she wrote the checks on behalf of her billing assistant, Respondent was travelling out of the country and did not consider the implications at the time. Disciplinary Counsel could not prove that the funds in the trust account used to pay for these and other non-client expenses were entrusted funds.

4. Respondent failed to keep and maintain complete records of all the client funds deposited in the trust account. Although most of the funds deposited in the account could be traced to a particular client, there were two cash deposits for which Respondent had no records. Respondent also accepted payments by credit card but did not maintain records for the clients who made the payments and what she did with the funds.

5. Respondent also failed to keep and maintain records for a number of withdrawals from the account. Respondent wrote herself a number of checks for earned fees, but did not note on the check the client matter associated with the payment. Respondent also had no other records that would indicate what fees the checks covered.

6. Respondent failed to keep and maintain a general ledger reflecting the funds deposited in and withdrawn from the trust account. Respondent also failed to keep and maintain individual client ledgers reflecting the money she received on behalf of the client and how she had handled the client's funds.

7. Respondent did have records for many of the client matters including retainer agreements, invoices to clients for her time charges, and receipts and checks for client expenses. The records Respondent kept and maintained, however, were not complete and prevented Disciplinary Counsel from auditing her handling of entrusted funds, even with the additional information that Respondent provided during the investigation.

8. Disciplinary Counsel could not prove that Respondent engaged in misappropriation of client funds.

9. Disciplinary Counsel also could not prove that any client or third party was prejudiced or harmed by Respondent's handling of entrusted funds and failure to maintain complete records of those funds.

10. Respondent has agreed to meet with the D.C. Bar's Practice Management Assistant Services program and take remedial measures to ensure she is complying with her ethical obligations.

11. Respondent's stipulated conduct violated Rule 1.15(a) of the D.C. Rules of Professional Conduct because she engaged in commingling and failed to keep and maintain complete records of entrusted funds.

III. Statement of Promises

12. Disciplinary Counsel has not made any promises regarding the underlying matter other than to recommend a public censure with conditions as part

of this negotiated disposition.

IV. The Agreed-Upon Sanction

A. Agreed Sanction

13. Respondent and Disciplinary Counsel have agreed that the appropriate sanction for the stipulated misconduct in violation of Rule 1.15(a) is a public censure with conditions.

14. Respondent and Disciplinary Counsel have agreed to the following conditions of this negotiated disposition:

(a) Respondent must take three hours of pre-approved continuing legal education related to the maintenance of trust accounts, record keeping, and/or safekeeping client property, and Respondent must certify and provide documenting proof that she has met this requirement to the Office of Disciplinary Counsel within six months of the date of the Court's final order.

(b) Respondent must meet with Dan Mills, Manager of the Practice Management Advisory Service of the District of Columbia Bar, in Respondent's office within two months of the date of the Court's final order. At that time, Respondent must execute a waiver allowing Mr. Mills and/or the practice monitor to communicate directly with the Office of Disciplinary Counsel regarding her compliance. When Respondent meets with Mr. Mills in her office, Mr. Mills shall conduct a full assessment of Respondent's practices, including but not limited to

reviewing financial records, client files, engagement letters, and her supervision and training of staff. Mr. Mills and/or the assigned practice monitor shall take steps to ensure that Respondent is aware of and has taken steps to comply with her obligations under Rule 1.15(a), including maintaining complete records relating to client funds and that Respondent complies with all of the practice monitor's recommendations.

(c) Respondent must be in full compliance with the practice monitor's requirements for a period of twelve consecutive months. After the practice monitor determines that Respondent has been in full compliance for twelve consecutive months, Respondent must sign an acknowledgement that she is in compliance with the practice monitor's requirements and file the signed acknowledgement with the Office of Disciplinary Counsel. This must be accomplished no later than two years after the date of the Court's final order.

B. Relevant Precedent

15. The range of sanction for violations of Rule 1.15(a) involving commingling and a failure to maintain complete records range from a Board reprimand to a short suspension. In most commingling cases, the Court has imposed a public censure – a sanction consistent with its warning in *In re Hessler*, 549 A.2d 700, 703 (D.C. 1988), that “in future cases of even ‘simple commingling,’ a sanction greater than public censure may well be imposed.” *See, e.g., In re Mott*, 886 A.2d

535 (D.C. 2005) (censure for failing to deposit client funds in a designated escrow account, failing to adequately safeguard client funds, and failing to keep appropriate records); *In re Clower*, 831 A.2d 1030 (D.C. 2003) (censure for failing to maintain complete records and failing to promptly notify and pay a third party from settlement funds; lawyer did not engage in commingling); *In re Graham*, 795 A.2d 51 (D.C. 2002) (censure for three instances of commingling when lawyer deposited client funds into his operating account and in one case failed to timely deliver funds to a third party); *In re Iglehart*, 759 A.2d 203 (D.C. 2000) (30-day suspension for commingling funds in trust account and failing to maintain adequate trust account records); *In re Goldberg*, 721 A.2d 627 (D.C. 1998) (censure for commingling law firm operating funds with the firm's escrow funds for brief period); *In re Osborne*, 713 A.2d 312 (D.C. 1998) (censure for depositing attorney's funds in firm trust account and failing to supervise staff; however, bookkeeper kept "careful records of all funds"); *In re Teitelbaum*, 686 A.2d 1037 (D.C. 1996) (censure for single instance of commingling when lawyer deposited settlement check into non-escrow checking account; lawyer had prior Informal Admonition); *In re Parsons*, 678 A.2d 1022 (D.C. 1996) (censure for commingling; lawyer had prior discipline); *In re Millstein*, 667 A.2d 1355 (D.C. 1995) (censure for single instance of commingling when lawyer deposited settlement check into operating account); *In re Ross*, 658 A.2d 209 (D.C. 1995) (30-day suspension for depositing settlement check into operating

account and failing to promptly pay a medical provider); *In re Ingram*, 584 A.2d 602 (D.C. 1991) (censure for depositing settlement check into lawyer's personal bank account and failing to promptly notify and pay client); *see also In re Canty*, BDN 310-02 Order (BPR Dec. 31, 2013) (Board reprimand for commingling and failure to maintain complete records); *In re Jones*, BDN 486-94 Order (BPR June 18, 1997) (reprimand for commingling for period of two and a half months; no finding that lawyer failed to maintain complete records); *In re Curtis*, BDN 366-95 Order (BPR Oct. 11, 1996) (reprimand for isolated commingling involving entrusted funds received on behalf of clients who were lawyer's relatives).

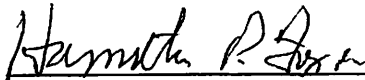
C. Mitigating Circumstances

16. A public censure is justified in this case because it is within the range of sanctions and takes into account the mitigating factors, which include: (a) Respondent has no prior discipline; (b) Respondent has taken full responsibility for her misconduct and has demonstrated remorse; (c) Respondent has fully cooperated with Disciplinary Counsel, including meeting with Disciplinary Counsel, and providing written responses, bank statements, and client records; and (d) prior to agreeing to this negotiated disposition, Respondent contacted Dan Mills to begin the process of having her practices and procedures assessed and modified to comply with the requirements of the Rules.

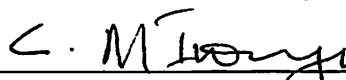
WHEREFORE, the Office of Disciplinary Counsel requests that the

Executive Attorney assign a Hearing Committee to review the petition for negotiated disposition pursuant to D.C. Bar Rule XI, § 12.1(c).

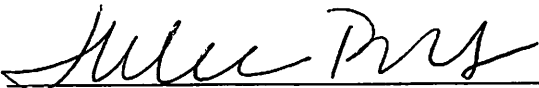
Respectfully submitted,



Hamilton P. Fox, III
Disciplinary Counsel
Bar Number



Chidinma M. Iwuji
Respondent
Bar Number 478118



Julia Porter
Deputy Disciplinary Counsel
Bar Number

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AFFIDAVIT OF NEGOTIATED DISCIPLINE

I, Chidinma M. Iwuji, affiant, pursuant to D. C. Bar Rule XI, §12.1 and Board Rule 17, and in furtherance of my wish to enter into a negotiated disposition, declare as follows:

1. I understand that I have the right to the assistance of counsel in this matter.
2. I am aware that there is currently pending an investigation into my handling of entrusted funds.
3. I have carefully reviewed both the accompanying petition for negotiated discipline and this affidavit.

4. I affirm that the stipulated facts in the accompanying petition and this affidavit are true and support the stipulated misconduct and the agreed upon sanction.

5. I am agreeing to this negotiated discipline because I believe that I could not successfully defend against disciplinary proceedings based on the stipulated misconduct.

6. I am freely and voluntarily entering into the negotiated disposition, and I am not being subjected to coercion or duress.

7. I acknowledge that Disciplinary Counsel has made no promises or inducements other than those contained in the petition for negotiated discipline.

8. I understand that the petition for negotiated discipline and this affidavit shall become public once they are filed with the Executive Attorney for the Board on Professional Responsibility, at which time all proceedings before the Hearing Committee shall be open to the public, and any exhibits introduced into evidence, any pleadings filed by the parties, and any transcript of the proceeding shall be available for public inspection.

9. I am fully aware of the implications of this negotiated discipline including, but not limited to, that by entering into this negotiated discipline I am giving up the following rights:

(a) My right to a contested hearing before a Hearing Committee at

which I could cross-examine adverse witnesses and compel the attendance of witnesses on my behalf;

(b) My right to require that Disciplinary Counsel prove each and every charge by clear and convincing evidence;

(c) My right to seek review of an adverse determination by a Hearing Committee by filing exceptions with the Board to the Hearing Committee's report and recommendations; and

(d) My right to appeal to the District of Columbia Court of Appeals ("Court") by filing exceptions to the Board's report and recommendation.

10. I understand that the negotiated disposition, if approved, may affect (a) my present and future ability to practice law, and (b) my bar memberships in other jurisdictions.

11. I understand that the negotiated disposition could be rejected by the Hearing Committee pursuant to D.C. Bar Rule XI, § 12.1(c) and Board Rule 17.7, or by the Court pursuant to D.C. Bar Rule XI, § 12.1(d).

12. I understand that any sworn statement made by me in the petition for negotiated discipline, the accompanying affidavit, or the limited hearing may be used for purposes of impeachment at any subsequent hearing in a contested matter.

13. I understand that the petition for negotiated discipline proposes that, for my stipulated misconduct, I should receive a Public Censure by the Court with the

following conditions:

(a) I must take three hours of pre-approved continuing legal education related to the maintenance of trust accounts, record keeping, and/or safekeeping client property, and I must certify and provide documenting proof that I have met this requirement to the Office of Disciplinary Counsel within six months of the date of the Court's final order.

(b) I must meet with Dan Mills, Manager of the Practice Management Advisory Service of the District of Columbia Bar, in my office within two months of the date of the Court's final order. At that time, I must execute a waiver allowing Mr. Mills and/or the practice monitor to communicate directly with the Office of Disciplinary Counsel regarding my compliance. When I meet with Mr. Mills in my office, Mr. Mills shall conduct a full assessment of my practices, including but not limited to reviewing financial records, client files, engagement letters, and my supervision and training of staff. Mr. Mills and/or the assigned practice monitor shall take steps to ensure that I am aware of and have taken steps to comply with my obligations under Rule 1.15(a), including maintaining complete records relating to client funds and that I comply with all of the practice monitor's recommendations.

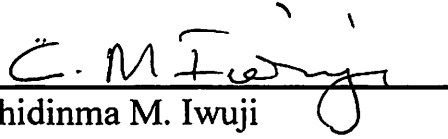
(c) I must be in full compliance with the practice monitor's requirements for a period of twelve consecutive months. After the practice monitor

determines that I have been in full compliance for twelve consecutive months, I must sign an acknowledgement that I am in compliance with the practice monitor's requirements and file the signed acknowledgement with the Office of Disciplinary Counsel. This must be accomplished no later than two years after the date of the Court's final order.

14. I understand the consequences of the negotiated discipline and my failure to comply with its terms, including the fact that my failure to comply with the conditions set forth in the Court's order imposing a Public Censure with conditions could result in a finding of contempt.

15. In mitigation of my misconduct, I submit the following:

- (a) I have not received any prior discipline;
- (b) I accept full responsibility for my misconduct;
- (c) I have fully cooperated with Disciplinary Counsel; and
- (d) Prior to agreeing to this negotiated disposition, I contacted Dan Mills to begin the process of having my practices and procedures assessed and modified to comply with the requirements of the Rules.

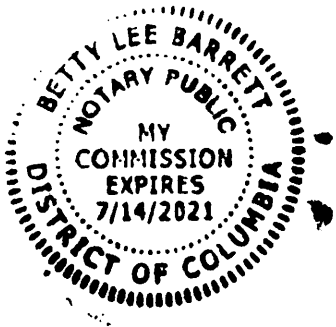

Chidinma M. Iwuji
Respondent

Subscribed and affirmed before me this 18th day of March 2019.

My commission expires:

7-14-2021

Betty Lee Barrett
Notary Public



District of Columbia: SS
Subscribed and Sworn to before me
this 18th day of March 2018
Betty Lee Barrett
Betty Lee Barrett, Notary Public, D.C.
My commission expires July 14, 2021