

**BEFORE A HEARING PANEL SUBCOMMITTEE
LAWYER DISCIPLINARY BOARD**

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In re: Robert L. Greer, an active
Member of the West Virginia
State Bar

Supreme Court No. 23-82
I.D. No. 21-02-430
Bar No. 5852

**RESPONDENT ROBERT L. GREER'S
ANSWER AND AFFIRMATIVE DEFENSES**

This 24th day of March, 2023, come Respondent Robert L. Greer, a long-time active member of the West Virginia State Bar ("Respondent Greer") and his counsel, J. Michael Benninger, and hereby submit the verified answer to the pending Statement of Charges and also present affirmative defenses thereto in accordance with Rule 2.12, *West Virginia Rules of Lawyer Disciplinary Procedure*, Rule 35(a), *West Virginia Rules of Appellate Procedure*, and Rules 7, 8, 10, and 12, *West Virginia Rules of Civil Procedure* and state and aver as follows:

FIRST DEFENSE

Respondent Greer's conduct and actions charged in the *Statement of Charges* were not intentional nor malicious, and were without conscious awareness or intent to harm the Complainant, Ms. Grega, or diminish the public's perception of the legal profession.

SECOND DEFENSE

At no time alleged in or relevant to the *Statement of Charges* was Respondent Greer or any lawyer in his law office acting as Ms. Grega's attorney, and she was not his law firm's client.

THIRD DEFENSE

The conduct and actions of Respondent Greer alleged in the *Statement of Charges* have caused little or no injury to the Complainant, Ms. Grega.

FOURTH DEFENSE

The insufficient check issued to the Complainant, Ms. Grega, was prepared and drawn on Respondent Greer's IOLTA account by another staff member employed by his firm at a time when he was out of the office on other business and failed to check and assure his IOLTA account was in a reconciled condition.

FIFTH DEFENSE

Upon being informed that a check had been issued and drawn on his firm's IOLTA account, made payable to Complainant Ms. Grega, and such account contained insufficient funds to cover same, Respondent Greer informed Ms. Grega of his actions and took immediate steps to cover the check, together with payment of interest, so as to eliminate or minimize any actual pecuniary loss or harm to Ms. Grega, his firm, and the legal

profession as a result of his failure to maintain an accurate and timely reconciled IOLTA account.

SIXTH DEFENSE

All or part of the charges and instances of alleged lawyer misconduct contained in the *Statement of Charges* are time barred by application of Rule 2.14, *West Virginia Rules of Disciplinary Procedure*.

SEVENTH DEFENSE

1. Respondent Greer admits the allegations of fact forth in Paragraphs 1, 2, 3, 4, and 5 of the *Statement of Charges*.

2. Respondent Greer is without sufficient information to form a belief as to the accuracy of the allegations of fact set forth in Paragraphs 6 and 7 of the *Statement of Charges* and, therefore, denies same. With regard to Paragraph 7, Respondent believes that Ms. Grega did telephone his office on at least one occasion and left a message which he retrieved upon return to his office after an out-of-town trip, and he thereafter spoke to her concerning the matter.

3. Respondent Greer generally admits the allegations of fact set forth in Paragraph 8 of the *Statement of Charges*; and, by way of further answer, guaranteed Ms. Grega that she would be fully repaid, with interest, in a timely manner.

However, Respondent Greer does not have a recollection of making

the quoted statement attributable to him in said paragraph and, therefore, denies same.

4. Respondent Greer admits the allegations of fact set forth in Paragraph 9 of the *Statement of Charges*; and, by way of further answer, Respondent Greer states that he received ODC's letter on January 10, 2022.

5. Respondent Greer admits the allegations of fact set forth in Paragraph 10 of the *Statement of Charges*; and, by way of further answer, states that, upon receiving ODC's initial letter dated December 28, 2021, he retained counsel and contact was made with ODC so that communication could be initiated concerning the complaint filed by Ms. Grega.

6. Respondent Greer admits the allegations of fact set forth in Paragraphs 11, 12, 13, and 14 of the *Statement of Charges*.

7. Respondent Greer admits the allegations of fact set forth in Paragraph 15 of the *Statement of Charges*; and, by way of further answer, Respondent states that funds deposited in his IOLTA account "to cover the shortage" were funds obtained, designated, and applied for purposes of operation of his law office and not "ostensibly personal funds."

8. Respondent Greer admits the allegations of fact set forth in Paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27 of the *Statement of Charges*.

9. Respondent Greer admits the allegations of fact set forth in Paragraph 28 of the *Statement of Charges*.

10. Respondent Greer denies the allegations of fact and law set forth in Paragraphs 29 and 30 of the *Statement of Charges*.

EIGHTH DEFENSE

At all times relevant to the instant lawyer disciplinary proceeding, Respondent Greer has cooperated with, been forthright to, and voluntarily provided information and documentation to the Office of Disciplinary Counsel in response to the complaint filed by Ms. Grega.

NINTH DEFENSE

There are mitigating factors applicable to the charges made against Respondent Greer in the *Statement of Charges*, and the same should be considered in this lawyer disciplinary proceeding.

TENTH DEFENSE

There are no aggravating factors applicable to Respondent Greer's alleged conduct in the *Statement of Charges*, and none should be found in this lawyer disciplinary proceeding.

ELEVENTH DEFENSE

After being informed of the issuance of the check to Ms. Grega, which was returned for insufficient funds, Respondent

Greer undertook steps to rectify his negligent mismanagement of his firm's IOLTA account upon which such check was drawn, and retained a licensed Certified Public Accountant to audit each of his financial accounts, including the one upon which the check was issued to Ms. Grega, and has provided the audit report to the Office of Disciplinary Counsel for its review and files in this lawyer disciplinary proceeding.

TWELFTH DEFENSE

Further, Respondent Greer has fully acknowledged his error and has affirmatively taken steps and declared that his IOLTA account will be subject to review and audit as he moves forward with his law practice.

Respectfully submitted this 24th day of March, 2023.



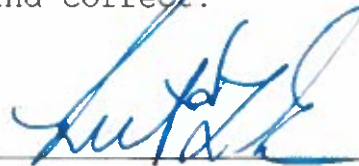
J. Michael Benninger, Esquire
W.Va. State Bar No. 312
Benninger Law
PROFESSIONAL LIMITED LIABILITY COMPANY
P. O. Box 623
Morgantown, WV 26507
(304) 241-1856
mike@benningerlaw.com

Counsel for Respondent

VERIFICATION

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, to-wit:

I, ROBERT L. GREER, being first duly sworn, hereby state that the facts and allegations set forth in the foregoing *Respondent Robert L. Greer's Answer and Affirmative Defenses* are true and correct, except insofar as they are therein stated to be upon information, and insofar as they are stated to be upon information, I believe them to be true and correct.



ROBERT L. GREER, ESQUIRE

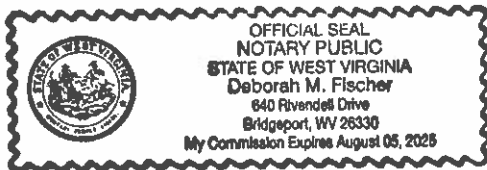
Taken, sworn to and subscribed before me this 24TH day of MARCH, 2023.

My commission expires:

August 5, 2025



Notary Public



CERTIFICATE OF SERVICE

I, J. Michael Benninger, counsel for Respondent, do hereby certify that on March 24, 2023, the foregoing *Respondent Robert L. Greer's Answer and Affirmative Defenses* was duly served upon the Office of Disciplinary Counsel and the Hearing Panel Subcommittee Members by depositing true and exact copies thereof in the regular course of the United States Mail, First Class, postage prepaid, addressed as follows:

Renée N. Frymyer
Chief Lawyer Disciplinary Counsel
State of West Virginia Office of Disciplinary Counsel
City Center East, Suite 1200C
4700 MacCorkle Avenue, S.E.
Charleston, WV 25304
rfrymyer@wvodc.org

Nicole Cofer, Esquire
Magistrate Court Services Division
4700 MacCorkle Avenue, SE, 9th Floor
Charleston, WV 25304
nicole.cofer@courtswv.gov

David A. Wandling, Esquire
1 Washington Avenue, Suite 200
Logan, WV 25601
dwandling@lccwv.us

Cynthia Tawney, Layperson
3836 Indian Creek Drive
Elkview, WV 25071
cynthiatawney@gmail.com



Counsel for Respondent