

**BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA**

SCA EFiled: Feb 15 2023
10:27AM EST

Transaction ID 69152851

Bar No.: 5852

I.D. No.: 21-02-430

In Re: ROBERT L. GREER, a member
of the West Virginia State Bar

STATEMENT OF CHARGES

To: Robert L. Greer, Esquire
439 West Philadelphia Avenue
Bridgeport, West Virginia 26330

YOU ARE HEREBY notified that a Hearing Panel Subcommittee of the Lawyer Disciplinary Board will hold a hearing pursuant to Rules 3.3 through 3.16 of the Rules of Lawyer Disciplinary Procedure, with regard to the following charges against you:

1. Robert L. Greer (hereinafter "Respondent") is a solo practitioner currently practicing in Bridgeport, which is located in Harrison County, West Virginia. Respondent, having passed the bar exam, was admitted to The West Virginia State Bar on November 6, 1991. As such, Respondent is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board.
2. Respondent has maintained a private law practice in Bridgeport since approximately 1997.

COUNT I
I.D. No. 21-02-430
Complaint of Christa L. Gregg

3. On December 17, 2021, Complainant Christa L. Gregg filed an ethics complaint against Respondent regarding a check she had received from Respondent's office that was returned for insufficient funds.
4. Ms. Gregg stated that in August 2021, her late mother's house was sold, and Respondent's firm accepted the check for the sale on behalf of her mother's estate.
5. On or about September 23, 2021, a check was issued to Ms. Gregg from Account Number 65484159 with the heading "Greer Law Offices PLLC IOLTA Account," for Fifty-Three Thousand Nine Hundred Forty-Four Dollars and Thirty-Eight Cents (\$53,944.38). The memo for the check reflected that it was for "Final Distribution."
6. Ms. Gregg stated she deposited the check into her bank account on November 12, 2021, but it was returned to her for insufficient funds shortly thereafter.
7. Ms. Gregg immediately contacted Respondent regarding the problem. She stated that she contacted Respondent's office several times, leaving messages for Respondent.
8. Ms. Gregg said Respondent finally contacted her on December 7, 2021, and he admitted that "he spent all of [her] money," and that he would attempt to obtain a loan to pay her back. At the time of her complaint, Ms. Gregg stated that she had not been reimbursed for the bounced check.

9. By letter dated December 28, 2021, the Office of Lawyer Disciplinary Counsel (“ODC”) sent Respondent a copy of the complaint and directed him to file a response within twenty (20) days.
10. After receiving no response, on or about January 25, 2022, the ODC sent a second letter by certified and first class mail directing Respondent to file a response by February 9, 2022, and advising him that his failure to do so may result in a subpoena *duces tecum* being issued for his appearance at the ODC for a sworn statement, or the allegations in the complaint would be deemed admitted and the matter would be referred to the Investigative Panel of the Lawyer Disciplinary Board.
11. On or about February 1, 2022, a written self-report was filed on behalf of Respondent by counsel. In the letter, Respondent admitted personal use of funds deposited into his IOLTA account belonging to Ms. Gregg, resulting from the court-ordered sale of real estate in a partition action. The civil action was handled by Respondent’s associate, Jonathan W. Fischer, Esquire.
12. Respondent said that the checks issued from his office’s IOLTA account were transmitted to the parties at a time he was working out-of-state, and he first became aware of the overdraft issue on November 29, 2021. Respondent believed that on that day or the next, he informed Ms. Gregg that he was working with his bank to replace the funds he had improperly utilized.
13. Respondent asserted that he advised Ms. Gregg on December 7, 2021, that he would be sending her Thirty Thousand Dollars (\$30,000.00), and the remainder

would be repaid plus compound interest and fees once he was able to obtain a bank loan.

14. Check Number 2174 was issued to Ms. Gregg on December 8, 2021, from Respondent's IOLTA account in the amount of Thirty Thousand Dollars (\$30,000.00).
15. On or about December 24, 2021, Respondent deposited ostensibly personal funds into his IOLTA account to cover the shortage.
16. Check Number 2177 was issued to Ms. Gregg on December 23, 2021, from Respondent's IOLTA account in the amount of Twenty-Three Thousand Nine Hundred Forty-Four Dollars and Thirty-Eight Cents (\$23,944.38).
17. Check Number 7338 was issued to Ms. Gregg on December 23, 2021, from Respondent's office operating account in the amount of Six Hundred Ninety-Nine Dollars and Fifty Cents (\$699.50).
18. The checks to Ms. Gregg all cleared Respondent's accounts by the end of December 2021.
19. In his self-report, Respondent expressed the intention to conduct an audit of his bank accounts to ensure they were reconciled and balanced and that no other funds had been improperly used.
20. By letter dated March 4, 2022, Respondent, by counsel, provided a written, verified, response to the complaint. The delay in filing a written verified response to the complaint was due to a misunderstanding involving Respondent's verbal self-report to ODC on December 7, 2021, a phone call which followed, made to

the ODC by Respondent's counsel on January 4, 2022, and the written self-report filed on Respondent's behalf on February 1, 2022.

21. In his response to the complaint, Respondent incorporated by reference the admissions made in the letter of February 1, 2022. Respondent reiterated that the issues involving money owed to Ms. Gregg had been resolved, and he apologized for his actions.
22. By letter dated June 30, 2022, Respondent advised the ODC that an audit of his office trust accounts had been completed by Cynthia Hill of Simplified Accounting Center. Respondent provided information that said accounts had been reconciled and corrected. Respondent asserted that the incident in question was resolved.
23. On or about November 9, 2022, the ODC received records pursuant to an "Investigative Subpoena Duces Tecum" issued to JP Morgan Chase Bank for records from accounts maintained by Respondent and/or the Greer Law Offices from January 1, 2020, through August 31, 2022.
24. A review of Respondent's IOLTA account, JP Morgan Chase bank account number 654841659, which is labeled "Greer Law Offices PLLC IOLTA Account," from January 1, 2020, through August 31, 2022, reflected a number of online transfers to Account Number 654841675, which is labeled "Greer Law Offices, PLLC, Operating Account." These transfers are as follows:

January 8, 2020 for:	\$2,500.00
January 24, 2020 for:	\$4,000.00
March 17, 2020 for:	\$4,000.00
May 7, 2020 for:	\$17,087.00

August 4, 2020 for:	\$1,500.00
August 5, 2020 for:	\$1,500.00
August 10, 2020 for:	\$500.00
September 4, 2020 for:	\$1,000.00
September 8, 2020 for:	\$500.00
September 14, 2020 for:	\$1,500.00
March 11, 2021 for:	\$2,500.00
March 18, 2021 for:	\$500.00
March 30, 2021 for:	\$1,500.00
April 27, 2021 for:	\$500.00
May 26, 2021 for:	\$8,000.00
June 8, 2021 for:	\$2,000.00
July 7, 2021 for:	\$2,639.25
July 26, 2021 for:	\$3,700.41
August 30, 2021 for:	\$4,000.00
September 9, 2021 for:	\$5,000.00
September 15, 2021 for:	\$5,000.00
October 15, 2021 for:	\$1,500.00
October 19, 2021 for:	\$1,500.00
October 21, 2021 for:	\$2,500.00
November 5, 2021 for:	\$3,500.00
November 17, 2021 for:	\$5,000.00
November 19, 2021 for:	\$4,000.00

25. There are no more online transfers following the November 2021 bank statement.
26. Respondent provided a sworn statement to the ODC on December 1, 2022, during which he admitted that in November 2021 he moved money out of his IOLTA account into his operating account to cover some expenses. He stated that he had not reconciled that account for almost a decade and had been trying to keep track in his head of how much money in the account was his and how much was client funds.
27. Regarding the many wire transfers listed above, Respondent stated that the money removed from his IOLTA account would have been either earned funds or funds

advanced to himself to cover operating expenses. Respondent said he lacked documentation to distinguish between the two.

28. Respondent asserted the accounts have been reconciled and there was only client money in his IOLTA account as of June 2022. He stated his intention moving forward was to keep the auditor on retainer and that he did not expect this problem to reoccur.

29. Because Respondent wrongfully commingled, misappropriated, and converted funds belonging to his client or a third party to his own use, he has violated Rule 1.15(a) and Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, which provide as follows:

Rule 1.15. Safekeeping property.

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property[.]

Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice.

30. Because Respondent transferred money from another account into his IOLTA account for purpose other than paying bank service charges, thereby comingling his personal funds with client funds, he has violated Rule 1.15(b) of the Rules of Professional Conduct, which provides as follows:

Rule 1.15. Safekeeping property.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service

charges on that account, but only in an amount necessary for that purpose.

* * *

Pursuant to Rule 2.9(d) of the Rules of Lawyer Disciplinary Procedure, the Investigative Panel has found that probable cause exists to formally charge you with a violation of the Rules of Professional Conduct and has issued this Statement of Charges. As provided by Rules 2.10 through 2.13 of the Rules of Lawyer Disciplinary Procedure, you have the right to file a verified written response to the foregoing charges within 30 days of service of this Statement of Charges by the Supreme Court of Appeals of West Virginia. Failure to file a response shall be deemed an admission of the factual allegations contained herein.

STATEMENT OF CHARGES ORDERED on the 11th day of February, 2023, and **ISSUED** this 11 day of February, 2023.



Letitia Neese Chafin, Chairperson
Investigative Panel
Lawyer Disciplinary Board

CERTIFICATE OF SERVICE

This is to certify that I, Renée N. Frymyer, Lawyer Disciplinary Counsel for the Office of Lawyer Disciplinary Counsel, have this day, February 15th, 2023, served a true copy of the foregoing "**STATEMENT OF CHARGES**" upon Respondent counsel J. Michael Benninger, by mailing the same, United States Mail with sufficient postage, to the following address:

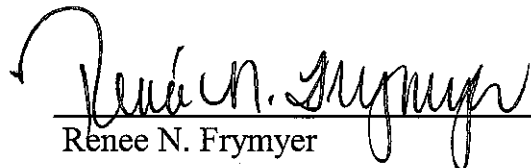
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mike@benningerlaw.com

And upon the Hearing Panel Subcommittee at the following addresses:

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Renee N. Frymyer