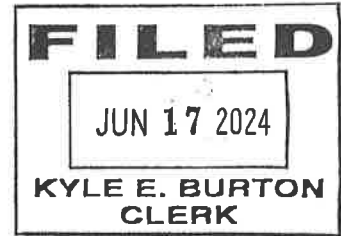


BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: **MARCUS CHRISTIAN DEVINE**
ARKANSAS BAR ID #98097
CPC Docket No. 2023-032



FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order arose are pursuant to an investigation of Devine's handling of client funds.

1. Devine's former client, Bing, whom Devine represented in a personal injury matter, filed a grievance with the OPC alleging Devine had failed to pay her the proceeds awarded to her after settlement of her claim.

2. In May 2022, Bing notified OPC that Devine had paid her the funds, did not want to cooperate further, and requested closure of her grievance. The OPC closed Bing's grievance.

3. Shortly before confirmation of payment, the OPC became aware that Devine did not have an IOLTA account at the time he represented Bing and received the settlement funds.

4. The OPC contacted AmTrust Financial in May 2022, regarding the settlement check. AmTrust claims adjuster, Joseph Papandrea, followed up with an email and gave instructions as to how to obtain a copy of the settlement statement and payment instructions from Devine.

5. On May 9, 2022, the OPC emailed a letter request for the payment instructions from AmTrust to Devine of the settlement proceeds.

6. AmTrust provided the requested information by email. Documents provided as attachments to the email included a letter from Amtrust describing the amount of the settlement check and check number, and a copy of the Release Transmittal Letter with attachments from Devine. The OPC emailed AmTrust requesting a copy of the check that was sent to Devine.

7. AmTrust emailed a copy of the check, front and back. The check was issued by Ana UBI Claims and issued to Devine Legal Services in the amount of \$28,000.00. Devine's client's name was not on the check. The copy of the back of the check shows it was signed by Devine for Devine Legal Services only.

8. The OPC subpoenaed Devine's bank records from Bank of America ("BOA") and BOA provided the requested records on flash drive along with a Declaration of Bank of America Bank Officer and/or Custodian of Records.

9. After receiving initial bank records, the OPC issued a second subpoena to BOA for additional information and bank records regarding Devine's accounts. BOA replied to the second subpoena by submitting the requested documents and an Affidavit of Bank of America Officer and/or Custodian of Records.

10. All bank records were submitted to Carl Geohegan ("Geohegan") for his review and further investigation. Geohegan, a former FBI agent, is the current investigator for the OPC.

11. The Arkansas Access to Justice Foundation which administers the IOLTA program for Arkansas, confirmed that for the years 2019 through 2022, Devine only reported having an IOLTA account as required by the Arkansas Supreme Court for deposit of client funds for one year, which was 2022. Devine did not obtain an IOLTA account until September 2022, under the name Devine Legal Services, well after the OPC began its investigation into Devine's conduct in the matter.

12. Devine did not provide an IOLTA Compliance Statement for 2019.

13. On Devine's IOLTA Compliance Statements for 2020 and 2021, he reported he was exempt from having an IOLTA account because he did not handle any client or third-party funds,

which includes judges, government attorneys, in-house counsel, and licensed attorneys who do not practice law.

14. Geohegan determined that Devine had two separate checking accounts to which he deposited and withdrew funds, a business account- Marcus C. Devine Sole Prop dba Devine Legal Services and a personal account – Marcus C. Devine.

15. Geohegan used eleven (11) checks, (ten (10) insurance checks deposited into Devine's business and one (1) insurance check deposited into Devine's personal account) as an original source in his analysis to identify funds that Devine should have placed in an IOLTA account.

16. On September 20, 2019, an insurance check for \$24,000.00 was deposited into Devine's business account. The check was issued by Canal Insurance Company and made payable to *Devine Legal Services and Robert Currie*.

17. On October 3, 2019, Devine issued a BOA cashier's check in the amount of \$16,575.26 withdrawn from the business account made payable to *Robert L. Currie*.

18. On June 3, 2020, an insurance check for \$5,000.00 was deposited into the business account. The check was issued by State Farm Mutual Automobile Insurance Company and made payable to *Breyonka Pruitt, A Single Individual & Devine Legal Services, Her Attorney*.

19. On June 10, 2020, an "AR TLR Cash Withdrawal" transaction was executed resulting in a debit of \$1,026.00 from the business account. The BOA Teller Journal listed this withdrawal as a conversion into a bank check for \$1,026.00. The journal listed the Payee as *Bryonka [sic] Puritt [sic]*, and the remitter as Marcus C. Devine.

20. On June 24, 2020, an insurance check for \$2,096.00 was deposited into the business account. The check was issued by Allstate and made payable to *Doris Current and Attorney(s) Devine Legal Services*.

21. On June 25, 2020, a "Customer Withdrawal Image" transaction totaling \$2,739.00 was debited from the account and converted into a BOA cashier's check for \$2,724.00 and issued to *Williams Chiropractic* with remitter listed as Marcus C. Devine.

22. On February 1, 2021, an insurance check for \$9,178.77 was deposited into the business account. The check was issued by Allstate and made payable to *Lequon Breedlove and Attorney(s) Devine Legal Services*.

23. On February 2, 2021, an online fund transfer was executed from the business account to the personal account for \$1,100.00.

24. On February 3, 2021, a second online fund transfer from the business account to the personal account was executed for \$8,000.00.

25. Also, on February 3, 2021, a "Customer Withdrawal Image" transaction of \$8,000.00 was debited from the personal account and converted into a BOA cashier's check in the amount of \$7,985.00. The check was issued to *Lequon Breedlove* with the remitter listed as Marcus C. Devine.

26. On April 7, 2021, an insurance check for \$7,000.00 was deposited into the business account. The check was issued by UNI Claims Account and made payable to *Devine Legal Services and Christopher Sherrer*.

27. On April 8, 2021, an "AR TLR Cash Withdrawal" was executed, resulting in a debit of \$4,300.00 from the business account. The BOA Teller Journal listed this transaction as "Cash

Out”. That same day, an online fund transfer was executed from the business account to the personal account for \$2,650.00.

28. On January 18, 2022, an insurance check for \$7,500.00 was deposited into the business account. The check was issued by Cherokee Insurance Company and made payable to *Sophia and Kenneth Johnson and Devine Legal Services*.

29. On January 19, 2022, an “ATR TLR Cash Withdrawal” was executed, resulting in a debit of \$4,000.00. The BOA Teller Journal listed that transaction as a “Cash Out”.

30. On February 28, 2022, two insurance checks totaling \$21,267.35 were deposited into the business account. Both checks were issued by State Farm Automobile Insurance Company. The first check was made payable to *Christopher Johnson and Devine Legal Services* for \$12,100.05. The second check was made payable to *Angelica Martin and Devine Legal Services* for \$9,167.30.

31. On March 1, 2022, a “Customer Withdrawal Image” transactions was debited from the business account and converted into two BOA cashier’s checks totaling \$13,229.78. A cashier’s check in the amount of \$4,000.40 was made payable to *Williams Chiropractor Clinic for Christopher Johnson and Angelic Martin*, with the remitter listed as Marcus Devine. A second cashier’s check in the amount of \$9,229.38 was made payable to *Christopher Johnson and Angelica Martin* with the remitter listed as Marcus Devine.

32. On April 11, 2022, an insurance check for \$28,000 was deposited into the business account. Prior to the deposit of this check, the account balance on April 1, 2022, was \$101.62. The \$28,000 was the only deposit made into the account in April 2022. The check was issued by Ana UBI Claims and made payable to *Devine Legal Services*. This is the check issued for Devine’s client Bing, who initiated the original grievance against Devine.

33. Between April 12, 2022, and April 22, 2022, five online fund transfers were executed from the business account to the personal account totaling \$11,105.60.

34. On May 3, 2022, an online fund transfer was executed from the business account to the personal account in the amount of \$16,800.00.

35. On May 6, 2022, check No. 341, written from the personal account for \$16,800.00, was debited against account funds. That check, dated April 30, 2022, was made payable to *Erica Bing*.

36. On May 10, 2022, an insurance check for \$18,000.00 was deposited into the business account. The check was issued by Gallagher Bassett Services, Inc. on behalf of National Union and made payable to *Devine Legal Services Reddick Moss PLLC*.

37. On May 19, 2022, three online fund transfers were executed from the business account to the personal account, totaling \$18,000.00.

38. On May 19, 2022, a "Customer Withdrawal Image" transaction, for \$8,815.00, was debited from the personal account. That same day a BOA cashier's check totaling \$8,800.00 was issued and made payable to *Kelan Townsend*. The remitter was Marcus C. Devine.

39. On January 11, 2019, an insurance check for \$10,200.00 was deposited into the personal account. The check was issued by State Farm Automotive Insurance Company and made payable to *La'Teef Lingham-Watts and Devine Law Firm, His Attorney*.

40. On January 18, 2019, Devine issued and cashed check No. 142 in the amount of \$6,700.00 to himself from the personal account. The memo line of the check noted "LaTeef Watts".

41. Devine comingled client funds with his business and personal accounts between the years 2019 and 2022, upon deposit of the insurance proceeds listed herein into those accounts instead of an IOLTA account as required by the Arkansas Supreme Court's Rules.

Upon consideration of the formal complaint and attached exhibit materials and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Devine's conduct violated Rule 1.15(a)(1) when he failed to maintain an IOLTA client trust account as required by the Arkansas Supreme Court and depositing clients' funds into the trust account. Devine instead, comingled the funds owed to his clients from insurance company payouts into his business account and his personal account held at Bank of America. Devine also wrote checks from his personal account to his clients for their share of the insurance proceeds. Arkansas Rule 1.15(a)(1) states a lawyer shall hold property of clients or third persons, including prospective clients, that is in a lawyer's possession in connection with a representation separate from the lawyer's own property

2. That Devine's conduct violated Rule 1.15(b)(1) when received insurance proceeds paid to his clients and deposited those funds into his business and personal accounts instead of an IOLTA account as required. Arkansas Rule 1.15(b)(1) states funds of a client shall be deposited and maintained in one or more separate, clearly identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.

3. That Devine's conduct violated Rule 1.15(b)(9) when he failed to submit his IOLTA Compliance Statement for 2019 and reported on his 2020 and 2021 IOLTA Compliance Statements that he was not required to have an IOLTA account because he did not handle client

funds despite the fact that he was handling insurance payouts for clients and depositing those funds into his business and personal accounts at Bank of America instead of an IOLTA account. Arkansas Rule 1.15(b)(9) states every lawyer practicing or admitted to practice in this State shall, as a condition thereof, be conclusively deemed to have consented to the reporting requirements mandated by this rule. All lawyers shall certify annually that they, their firm or professional corporation is in compliance with all sections and subsections of this Rule.

4. That Devine's conduct violated Rule 1.15(b)(10) when he failed to submit his IOLTA Compliance Statement for 2019 and reported on his 2020 and 2021 IOLTA Compliance Statements that he was not required to have an IOLTA account because he did not handle client funds despite the fact that he was handling insurance payouts for clients and depositing those funds into his business and personal accounts at Bank of America instead of an IOLTA account. Arkansas Rule 1.15(b)(10) states that a lawyer shall certify, in connection with the annual renewal of the lawyer's license, that the lawyer is complying with all provisions of this Rule. Certification shall be made on a form provided by and in a manner designated by the Clerk of the Supreme Court.

5. That Devine's conduct violated Rule 8.4(c) when from 2019 until 2022, he failed to deposit insurance proceeds paid to his clients into an IOLTA account as required and instead deposited those funds into his business and personal accounts. He was dishonest on his 2020 and 2021 IOLTA Compliance Forms when he reported he was not required to have an IOLTA account because he did not handle client funds despite the fact that he was handling insurance payouts for clients and depositing those funds into his business and personal accounts at Bank of America instead of an IOLTA account. Arkansas Rule 8.4(c) states it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **MARCUS CHRISTIAN DEVINE**, Arkansas Bar ID #98097, be, and hereby is, **Reprimanded** for his conduct in this matter. Devine shall pay a fine in the amount of TWO THOUSAND DOLLARS (\$2,000.00) in accordance with Section 18.B of the Procedures and costs in the amount of ONE HUNDRED FIFTY DOLLARS (\$150.00) in accordance with Section 18.A of the Procedures. The attorney's prior disciplinary record was a factor in assessing this sanction. The fine and cost assessed herein totaling TWO THOUSAND ONE HUNDRED FIFTY DOLLARS (\$2,150.00) shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A



Marshall S. Ney, Chair, Panel A

Date: May 23, 2024