

Case Number: OBC17-0125



FILED

SEP 28 2017

STATE BAR OF NEVADA  
BY: *[Signature]*  
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA  
NORTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

TORY D. ALLEN, ESQ.

STATE BAR NO. 12680

Respondent.

**PUBLIC REPRIMAND**

TO: Tory D. Allen, Esq.  
3715 Lakeside Drive, Ste A  
Reno, Nevada 89509

You met with a client ("the Client") for an initial consultation on August 13, 2015. The Client sought assistance in collecting funds from his ex-wife. You and the Client executed a Retainer Agreement and the Client deposited a \$10,000 retainer with you. You did not deposit the \$10,000 retainer into your IOLTA trust account, instead depositing the funds into your business account. You did not hold the \$10,000 in funds until you had earned them.

Five days later, you met with the Client to discuss and review additional information including a spreadsheet of expenses relating to the Client's case. You allege that the

1 following day, you began drafting a demand letter to the Client's ex-wife.

2 Eleven days after the initial consultation, the Client instructed you to hold off on any  
3 further work because he was offered repayment from his ex-wife. The Client copied you  
4 on a series of e-mails regarding the repayment plans, which you copied to the Client's file.  
5 After approximately two more weeks, you did no further work on the Client's behalf in the  
6 matter.

7 The Retainer Agreement stated that you would provide the Client with a bill on a  
8 monthly basis. However, the Client has never received a monthly statement, or  
9 accounting, from you.

10 You did not earn \$7,537 of the \$10,000 deposited by the Client. You have not  
11 refunded the monies in the approximately 19 months since the Client terminated the  
12 representation. This is despite multiple requests, made between September, 2015 and  
13 February, 2016, from the Client to provide a refund and an accounting of fees earned. You  
14 did assert that you had earned some portion of the retainer and suggest that the Client file  
15 a fee dispute with the State Bar and let the disagreement be resolved in that manner, but  
16 that proceeding would not have involved the undisputed refund amount of \$7,537.

17 Pursuant to RPC 1.15 (Safekeeping of Property), you had a duty to safekeep the  
18 retainer funds paid by the Client. This duty includes depositing the unearned funds in a  
19 trust account separate from your own funds until they are earned, promptly returning any  
20 unearned funds to the Client, and providing the Client with an accounting of the funds upon  
21 request. You knowingly violated RPC 1.15 (Safekeeping of Property) by your failure to (i)  
22 properly deposit and hold the retainer funds until earned, (ii) promptly return unearned  
23 funds to the client and (iii) provide the client with an accounting of earned funds upon  
24 request.

1 Pursuant to RPC 1.16 (Declining or Terminating Representation), you had a duty to  
2 refund unearned advanced fees to a client upon the client's termination of the  
3 representation. You also knowingly violated RPC 1.16 (Declining or Terminating  
4 Representation) when you failed to return the unearned advanced fees of \$7,537 to the  
5 Client.

6 The Client has been actually injured by your failure to properly hold the retainer  
7 funds when you initially received them and by your failure to return the unearned retainer  
8 funds of, \$7,537 for more than 17 months.

9 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.15  
10 (Safekeeping of Property) and RPC 1.16 (Declining or Terminating Representation) and  
11 are hereby PUBLICLY REPRIMANDED and required to refund the \$7,537 to the Client.  
12 You are also required to pay \$1,500, plus the hard costs of the disciplinary proceeding, as  
13 provided for in SCR 120.

14 DATED this 25<sup>TH</sup> day of July, 2017.

15  
16 By: Bart Aaron  
17 BARTH AARON, ESQ.  
18 Formal Hearing Panel Chair  
19 Northern Nevada Disciplinary Board  
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