

payment of his enrollment fees and he has no prior discipline.

5. At all times relevant to this matter, Respondent maintained and used an attorney trust account, account number XX-XXXX-1086 (“Trust Account”) with PNC Bank (“PNC”), also maintained an account with PNC to utilize for the general operating expenses of his law firm, account number XX-XXXX-2241 (“Operating Account”), and also maintained an account with PNC to utilize for personal expenses, account number XX-XXXX-5143 (“Personal Account”).

6. On February 14, 2012, February 21, 2012, March 4, 2013, March 8, 2013, and March 25, 2013, PNC, in compliance with the regulatory requirement set forth in amended Missouri Supreme Court Rule 4-1.15 and the related Advisory Committee Regulation effective January 1, 2010, sent an overdraft notification to the Office of Chief Disciplinary Counsel (“OCDC”) in relation to the Trust Account.

7. Respondent did not maintain full records reflecting the activity in his Trust Account, the source of funds being deposited into the Trust Account or documentation providing the support and explanation for the withdrawal or disbursements of funds from the Trust Account.

8. OCDC’s investigator obtained by subpoena the bank statements and records from PNC relating to the Trust Account and Operating Account. Thereafter, the investigator prepared a Trust Account examination spreadsheet (“Trust Account

Examination”) for the Trust Account bank statements reflecting checks, withdrawals and deposits from December 3, 2010 through March 29, 2013.

9. The Trust Account Examination reflects instances of Respondent commingling personal funds with Trust Account funds by depositing earned legal fees into the Trust Account. In particular:

a. Respondent provided consulting services to a utility corporation for which he was paid \$5000 per month for work performed. Respondent invoiced the utility corporation on a monthly basis for the services performed in the prior month. On June 1, 2011, June 6, 2011, October 13, 2011, June 19, 2012, and December 21, 2012 Respondent deposited checks from the utility corporation into the Trust Account, on each occasion in the amount of \$5,000. Those payments represented compensation for services already performed and as such were earned fees of Respondent.

b. Respondent provided legal services to a board of education for which he billed on an hourly basis for work performed. From January 11, 2011 through September 4, 2012, on twelve occasions Respondent deposited payments received from the educational board for work performed to the Trust Account.

c. Respondent provided legal services to a real estate development firm for which he received compensation for services performed following completion of those services. On February 24, 2012, Respondent received payment from the real estate

development firm for services performed which payment was wire transferred to the Trust Account.

d. Respondent provided legal services to a healthcare management company pursuant to a written agreement dated March 1, 2012, which provided for Respondent to submit invoices to the healthcare management company for “services provided” and payment within 30 days thereafter. From March 19, 2012 through February 22, 2013, Respondent received ten payments for services provided all of which were deposited into Respondent’s Trust Account.

e. Respondent represented L.W. and C.W. in a personal injury matter. On May 8, 2012, Respondent received checks from the insurance carrier in settlement of the personal injury claims that included a separate check payable to Respondent alone for his fees in relation to such representation. Respondent deposited the check for his earned fees in the Trust Account.

10. Respondent paid personal or operating expenses out of the Trust Account by writing checks directly to payees including payments to AT&T, Minuteman Press and Leehman Fiberglass as well as American Express and ACH for credit card processing lease payments.

11. Respondent paid personal or operating expenses out of the Trust Account by utilizing account withdrawal slips to purchase cashier’s checks for payees including the

US Treasury, Copy Concepts, CATCO, Northway, SALAMA, ELCO Chevrolet, Rejis Commission and Midwest Accounting as well as various other payees for advertising and lease agreements.

12. The Trust Account Examination reflects that on numerous occasions Respondent deposited client funds into the account, retaining a portion of such funds to satisfy payment to third party providers on his client's behalf, and prior to making such payments the balance of the Trust Account fell below the amount of client funds retained in the Trust Account. In particular:

a. On February 3, 2011, Respondent received a settlement check in the amount of \$50,000 on behalf of his client CC. Such settlement proceeds were deposited in the Trust Account. After disbursement of funds to his client and for his fee Respondent retained one third of the settlement proceeds in the Trust Account for payment of a medical lien asserted against the proceeds. On April 11, 2011, Respondent obtained a cashier's check in the amount of \$16,666.67 by executing a withdrawal from his client trust account payable to the Missouri Department of Social Services on behalf of client CC. Respondent failed to deliver the cashier's check to the Department of Social Services and on May 24, 2011, Respondent deposited the cashier's check to his Trust Account, endorsing the back of the check "not used for purposes intended". Respondent did not pay the medical lien from the retained funds but in July of 2011 the Trust

Account had a negative balance, leaving insufficient funds to make payment of the medical lien on behalf of Clerk. On December 21, 2012, Respondent submitted a check in the amount of \$16,666.67 to the Missouri Department of Social Services on behalf of client CC drawing against funds in Respondent's Operating Account. On January 25, 2013, that check was presented for payment against Respondent's Operating Account and was returned for insufficient funds. On January 29, 2013, the check was presented a second time for payment against Respondent's Operating Account and was again returned for insufficient funds. As of March 29, 2013, client CC's medical expenses remained unpaid.

b. On July 25, 2011, Respondent deposited into the Trust Account \$50,000, representing settlement of a portion of his client's claims in regard to a wrongful death cause of action arising out of the death of client FW. On July 29, 2011, Respondent made disbursements of those settlement proceeds but retained \$546.75 in the Trust Account to make payment of an outstanding EMS fee. Respondent failed to pay the EMS fee and on September 9, 2011, the balance in the Trust Account fell to \$0.99 leaving insufficient funds in the account to satisfy the EMS fee.

c. On August 5, 2011 Respondent deposited \$28,562 into the Trust Account representing settlement proceeds he received on behalf of his client AD. Respondent disbursed the settlement proceeds including a check dated August 12, 2011

to Cyber Diagnostic in the amount of \$2,000 in payment of medical fees on behalf of client AD. The Cyber Diagnostic check was never presented to PNC Bank for payment and by September 9, 2011, there were insufficient funds remaining in the Trust Account to satisfy payment of the check.

d. On September 30, 2011, Respondent deposited \$11,500 into the Trust Account representing settlement proceeds from his representation of client JL. Respondent disbursed the settlement proceeds from the Trust Account except for \$1,650.93 which was retained in the Trust Account to make payment to the City of St. Louis EMS and the Missouri Department of Social Services on behalf of client JL. Prior to making such payments the balance of the Trust Account on October 21, 2011 fell to \$240, leaving insufficient funds in the Trust Account to make payment to those providers.

e. In October of 2011 Respondent deposited settlement proceeds related to his representation of client TR in the amount of \$30,000 into the Trust Account. Respondent subsequently disbursed a portion of those funds, retaining in the Trust Account \$3,512.50 for payment of outstanding medical bills on behalf of client TR. Respondent did not make payment to the medical provider and by November of 2011 the balance of the Trust Account fell to \$2,094.85, an amount less than what was retained from client TR's settlement.

f. On January 9, 2012, Respondent deposited \$6,175 into the Trust Account, which amount was from the settlement of his client HL personal injury claim. On January 12, 2012, Respondent disbursed the settlement proceeds, including sending a Trust Account check in the amount of \$1,660 to client HL's health care provider. On February 10, 2012 and February 12, 2012 the check was returned for insufficient funds in the Trust Account.

g. On March 20, 2012, Respondent deposited \$13,000 into the Trust Account representing settlement funds he received on behalf of his client EP. After making disbursements from the settlement proceeds in March of 2012 Respondent retained \$7,270.89 of the settlement proceeds in the Trust Account to make payment of outstanding medical bills on client EP's behalf. Respondent did not pay client EP's medical bills and by April 18, 2012, the balance of the Trust Account was less than the amount withheld from client EP's settlement.

h. On June 11, 2012, Respondent deposited client AJ's settlement check in the amount of \$18,043.96 into the Trust Account. Respondent disbursed the settlement funds but retained \$2,140 in the Trust Account for payment of monies due to client AJ's health care provider. Respondent did not make the payment to the health care provider and by July 18, 2012, there were insufficient funds in the Trust Account to pay the outstanding amount.

i. On August 9, 2012, Respondent deposited \$11,500 into the Trust Account representing settlement proceeds he had received on behalf of his client, CM. Respondent disbursed the settlement proceeds but retained \$1,851.00 in the Trust Account to make payment to one of the three CM health care providers listed on client CM's settlement sheet. Respondent made payment to the one health care provider from funds drawn from the Operating Account. Respondent failed to make payment to the other two health care providers listed and as of February 25, 2013, the Trust Account balance was negative and \$51.00 in client settlement funds remained unpaid.

j. On December 4, 2012, Respondent deposited \$4,356.50 into the Trust Account representing settlement proceeds he received on behalf of his client, WC. After making disbursements from the Trust Account for Respondent's attorney fees, outstanding medical fees and a portion of the settlement proceeds to client WC, \$143.50 remained in the Trust Account from the settlement. The \$143.50 represented client WC's additional portion of the settlement proceeds. Respondent failed to pay that amount to client WC and in January of 2013 the Trust Account was overdrawn.

k. On September 26, 2012, Respondent deposited \$5,250.00 into the Trust Account representing settlement proceeds he received on behalf of his client, MS. After making disbursements from the Trust Account for Respondent's attorney fees and a portion of the settlement proceeds to client MS, \$1,689.68 remained in the Trust Account

from the settlement. On November 5, 2012, the Trust Account only contained \$46.80 and \$1,689.68 in client MS funds remained unpaid.

1. On September 24, 2012, Respondent deposited \$3,467.40 into the Personal Account representing settlement proceeds he received on behalf of his client, LH. On September 26, 2012, after realizing the deposit error, Respondent transferred the entire client LH settlement amount to his Operating Account, which at the time had a negative balance, instead of the Trust Account. Respondent disbursed the client settlement funds to client LH and her medical providers directly from the Operating Account.

m. On February 7, 2011, Respondent made two disbursements from the Trust Account related to his representation of client ML. The first disbursement was to client ML's medical provider in the amount of \$2,389.00 and the second disbursement was to client ML in the amount of \$2,926.60. The Trust Account examination dates back to December 3, 2010. Between the dates of December 3, 2010 and the date the funds were disbursed on February 7, 2011, there is no deposit to the Trust Account referencing client ML. On December 16, 2010, the trust account balance fell to \$1,800.00, an amount less than what should have been retained from the client ML settlement.

13. Respondent is guilty of professional misconduct as a result of violating Rule 4-1.3 by failing to act with reasonable promptness in delivering the funds of clients

to clients or third parties.

14. Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(c) by commingling personal funds and client funds in the Trust Account and by failing to appropriately safeguard his client's property.

15. Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(d) by failing to keep complete records of the Trust Account that expressly reflect the date, amount, source, and explanation for all receipts, withdrawals, and disbursements of the funds or other property of clients or other parties.

16. Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(e) by depositing his own funds into the Trust Account in an amount greater than necessary to cover bank service charges.

17. Respondent is guilty of professional misconduct as a result of violating Rule 4-1.15(i) by failing to promptly deliver funds to client and third parties.

18. Respondent is guilty of professional misconduct under Rule 4-8.4(c) by misappropriating client funds for his own personal use.

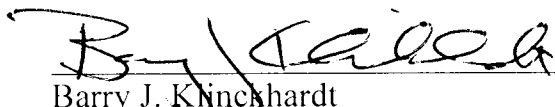
WHEREFORE, Informant prays that a decision be issued finding Respondent guilty of professional misconduct as alleged in this Information and that Respondent be disciplined in accordance with Rule 5 and that costs be assessed against Respondent.

DESIGNATION OF COUNSEL FOR INFORMANT

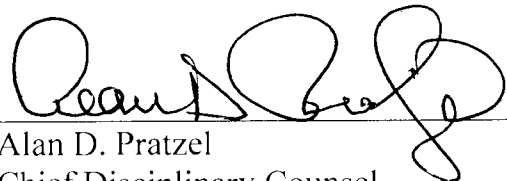
The Chief Disciplinary Counsel has designated the following Counsel of Record for Informant:

Barry J. Klinckhardt
609 Audubon Place Court
Manchester, Missouri 63021

6/3/2013
Date


Barry J. Klinckhardt
Attorney for Informant

6/3/2013
Date


Alan D. Pratzel
Chief Disciplinary Counsel