

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO

In re:

Complaint against

Case No. 2015-080

William Henry Truax, Jr.

Recommendation of the
Board of Professional Conduct
of the Supreme Court of Ohio

Respondent

Disciplinary Counsel

Relator

DISCIPLINE BY CONSENT

{¶1} This matter was submitted to a three-member panel of the Board of Professional Conduct pursuant to a consent to discipline agreement filed by the parties on April 25, 2016. The agreement was considered by a panel consisting of Hon. Karen D. Lawson, William H. Douglass, and Charles J. Faruki, chair.

{¶2} The hearing panel finds that this agreement was filed on a timely basis and conforms to the requirements of Gov. Bar R. V, Section 16. The panel recommends acceptance of the agreement including the statement of facts and the violation of Prof. Cond. R. 1.15(c) [a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn only as fees are earned or expenses are incurred]. The panel accepts the parties' agreed dismissal of the alleged violation of Prof. Cond. R. 8.4(c) and dismisses that charge.

{¶3} The panel finds the agreed mitigating factors of no prior discipline, lack of a dishonest motive, a timely and good faith effort to make restitution, and a cooperative attitude toward these proceedings. The panel finds no aggravating factors.

{¶4} The panel has reviewed the case of *Disciplinary Counsel v. Vivyan*, 125 Ohio

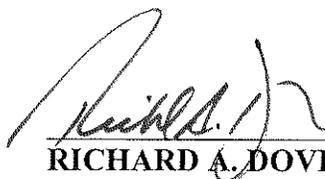
St.3d 12, 2010-Ohio-650, cited by the parties and the cases cited in that opinion. As noted in *Vivyan*, the standard disposition where a lawyer withdraws client funds to which the lawyer is not entitled is a six-month fully stayed suspension. Moreover, Respondent has practiced for nearly 40 years without incident, a factor that weighs in his favor as it did for the respondent in *Vivyan*. *Id.* at ¶13.

{¶5} Accordingly, the panel recommends the imposition of a six-month suspension from the practice of law, with the suspension stayed in its entirety on the condition of no further disciplinary violations.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 12, the Board of Professional Conduct of the Supreme Court of Ohio considered this matter on June 3, 2016. The Board voted to accept and adopt the agreement entered into by Relator and Respondent and recommends imposition of a six-month suspension from the practice of law, stayed in its entirety on condition of no further disciplinary violations. The Board further recommends that Respondent be ordered to pay the costs of these proceedings.

Pursuant to the order of the Board of Professional Conduct of the Supreme Court of Ohio, I hereby certify the foregoing recommendation as that of the Board.



RICHARD A. DOVE, Director

3. On April 15, 2015, Angelica Hynes retained respondent to represent her in a custody matter.
4. On the same day, Hynes paid respondent a \$1,750.00 retainer, which respondent deposited into his IOLTA.
5. At the time respondent deposited Hynes' retainer, his IOLTA had a balance of \$5.22.
6. On April 17, 2015, respondent withdrew \$750.00 from his IOLTA in unearned legal fees from Hynes' retainer and used the funds for personal expenses.
7. On April 19, 2015, respondent earned \$43.75 in legal fees pertaining to the Hynes matter.
8. On April 20, 2015, respondent earned \$175.00 in legal fees pertaining to the Hynes matter.
9. On April 27, 2015, respondent withdrew \$500.00, including \$281.25 in unearned legal fees, from his IOLTA for personal expenses.
10. On April 29, 2015, respondent withdrew \$475.00 from his IOLTA in unearned legal fees from Hynes' retainer and used the funds for personal expenses.
11. On May 4, 2015, respondent earned \$78.75 in legal fees pertaining to the Hynes matter.
12. On May 5, 2015, respondent withdrew \$45.00 from his IOLTA causing him to overdraw his account by \$14.78.
13. On the same day, the \$45.00 check was returned unpaid.
14. On May 11, 2015, relator received information from PNC Bank that respondent had overdrawn his IOLTA.
15. On May 12, 2015, respondent withdrew \$20.00 from his IOLTA.
16. As of May 12, 2015, respondent had converted to his own use and benefit at least \$1,452.50 in unearned legal fees from Hynes.
17. On June 30, 2015, relator sent respondent a letter of inquiry.

18. On July 22, 2015, over three months after respondent first converted Hynes' funds, respondent met with Hynes to advise her of the conversion.
19. At this meeting, respondent offered to provide a refund to Hynes of the converted funds or the entire retainer fee.
20. Hynes chose to allow respondent to continue to represent her and to deduct the costs of his legal services from the amount he converted.
21. On July 29, 2015, respondent replied to relator's letter of inquiry, in which he acknowledged that he "withdrew funds from the IOLTA account before I had performed sufficient services to be entitled to make the withdrawals."
22. Respondent completed his representation of Hynes without further incident.

STIPULATED RULE VIOLATIONS

Relator and respondent agree that respondent's conduct violates Prof. Cond. R. 1.15(c) (a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred).

Relator and respondent further agree to dismiss Prof. Cond. R. 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

MITIGATION EVIDENCE

Relator and respondent stipulate to the following mitigating factors:

1. The absence of a prior disciplinary record;
2. The absence of a dishonest motive;
3. A timely, good faith effort to make restitution or to rectify consequences of the misconduct; and,
4. A cooperative attitude toward the proceedings;

AGGRAVATION EVIDENCE

Relator and respondent stipulate that there are no aggravating factors.

STIPULATED RECOMMENDED SANCTION

Relator and respondent agree that the recommended sanction in this matter is a six-month suspension, all stayed. Such a sanction is commensurate with the Supreme Court's decision in *Disciplinary Counsel v. Vivyan*, 125 Ohio St.3d 12, 2010-Ohio-650, 925 N.E.2d 947. In that case, Attorney Thomas Vivyan settled a personal-injury claim, then agreed to hold a portion of the proceeds in trust for his client while he negotiated with a doctor who was owed payment. *Id.* at ¶3. Rather than hold the funds in trust, Vivyan misappropriated \$1,535 in unearned proceeds by drawing eight checks payable to cash, then used the funds for personal expenses. *Id.* at ¶4. The Court found that Vivyan violated Prof. Cond. R. 1.15(a),(b), and (c) and imposed a six-month, stayed suspension, stating:

While the board found that respondent may not have specifically intended to misuse his client trust account, we conclude that he knew that he had withdrawn client funds to which he was not entitled, and that conduct calls for our standard disposition. Respondent is therefore suspended from the practice of law for six months; however, the suspension is stayed on condition of no further misconduct. *Id.* at ¶14.

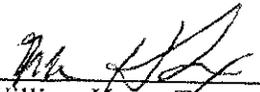
Similar to Vivyan, respondent knew that he was not entitled to the unearned fees that he withdrew from his trust account. However, like Vivyan, respondent presents with several mitigating factors and no aggravating factors; consequently, a six-month, stayed suspension is appropriate.

STIPULATED EXHIBITS

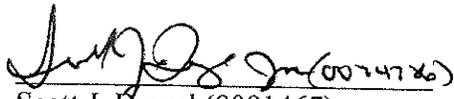
- Exhibit 1 IOLTA Checking Summary from PNC Bank
- Exhibit 2 Itemized Billing Statement
- Exhibit 3 Respondent's Response to Relator's Letter of Inquiry

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 25th day of April, 2016.



William Henry Truax (0001923)
P.O. Box 6433
Columbus, Ohio 43206
Respondent



Scott J. Drexel (0091467)
Disciplinary Counsel
Relator



Joseph M. Caligiuri (0074786)
Counsel of Record
Chief Assistant Disciplinary Counsel

STATE OF OHIO)
) §:
COUNTY OF FRANKLIN)

AFFIDAVIT

I, William Henry Truax, having been duly sworn according to the laws of Ohio, hereby
depose and say:

1. I have personal knowledge of the facts set forth in this affidavit and the attached Agreement for Consent to Discipline.
2. I was admitted to the practice of law in the state of Ohio on November 19, 1976.
3. I am subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
4. I committed the misconduct outlined in the attached consent agreement; however, my admission is conditioned upon the acceptance of the agreement by the Board of Professional Conduct (Board).
5. I acknowledge that the consent agreement sets forth all grounds for discipline currently pending before the Board.
6. I acknowledge that grounds exist for the imposition of a sanction against me for the conduct outlined in the attached consent agreement.
7. I admit to the truth of the material facts listed in the consent agreement.
8. I agree with the sanction recommended to the Board in the attached agreement.
9. I acknowledge that the admissions in the consent agreement are freely and voluntarily given, without coercion and duress.
10. I am aware of the implications that the admissions in the consent agreement may have on my ability to practice law in Ohio.
11. I understand that the Supreme Court of Ohio has the final authority to determine the appropriate sanction for the misconduct I have committed.

FURTHER AFFIANT SAYETH NAUGHT.



William Henry Truax
Respondent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE THIS
25th DAY OF April, 2016.

Christine McKrimmon
Notary Public

My commission expires 8-25-2019



Christine McKrimmon
Notary Public, State of Ohio
My Commission Expires 08-25-2019

IOLTA/IOTA Checking
PNC Bank

For the period 01/01/2015 to 01/30/2015

WILLIAM H TRUAX ATTY AT LAW
IOLTA CLIENT TRT FUND
IOLTA TRUST ACCOUNT
PO BOX 6433
COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 3638

Page 1 of 1

Number of enclosures: 0

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PNC Bank Online Banking on pnc.com
FREE Online Bill Pay

For customer service call 1-877-BUS-BNKG
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Write to: Customer Service
PO Box 609
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TDD terminal: 1-800-531-1648
For hearing impaired clients only

IOLTA/IOTA Checking Summary

Account number: [REDACTED] 3638

Overdraft Protection has not been established for this account.
Please contact us if you would like to set up this service.

William H Truax Atty At Law
IOLTA Client Trt Fund
IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
5.22	0.00	0.00	5.22

Deposits and Other Additions

Total 0

Checks and Other Deductions

Total 0 0.00

**Stipulated
Exhibit 1**

IOLTA/IOTA Checking
PNC Bank

For the period 01/31/2015 to 02/27/2015

WILLIAM H TRUAX ATTY AT LAW
IOLTA CLIENT TRT FUND
IOLTA TRUST ACCOUNT
PO BOX 6433
COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 8638

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IOLTA/IOTA Checking Summary

Account number: [REDACTED] 8638

Overdraft Protection has not been established for this account.
Please contact us if you would like to set up this service.

William H Truax Atty At Law
IOLTA Client Trt Fund
IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
5.22	0.00	0.00	5.22

Deposits and Other Additions

Total 0

Checks and Other Deductions

Total 0 0.00

IOLTA/IOTA Checking

PNC Bank

For the period 02/28/2015 to 03/31/2015

WILLIAM H TRUAX ATTY AT LAW
 IOLTA CLIENT TRF FUND
 IOLTA TRUST ACCOUNT
 PO BOX 6433
 COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 3638

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Number of enclosures: 0

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IOLTA/IOTA Checking Summary

Account number: [REDACTED] 3638

Overdraft Protection has not been established for this account.

Please contact us if you would like to set up this service.

William H Truax Atty At Law
 IOLTA Client Trf Fund
 IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
5.22	0.00	0.00	5.22

Deposits and Other Additions

Total 0

Checks and Other Deductions

Total 0 0.00

IOLTA/IOTA Checking

PNC Bank

For the period 04/01/2015 to 04/30/2015

WILLIAM H TRUAX ATTY AT LAW
 IOLTA CLIENT TRT FUND
 IOLTA TRUST ACCOUNT
 PO BOX 6433
 COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 3638

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Number of enclosures: 0

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IOLTA/IOTA Checking Summary

Account number: [REDACTED] 3638

Overdraft Protection has not been established for this account.

Please contact us if you would like to set up this service.

William H Truax Atty At Law

IOLTA Client Trt Fund

IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
5.22	1,750.15	1,725.15	30.22

Interest Summary

Annual Percentage Yield Earned (APYE)	Number of days in interest period	Average collected balance for APYE	Interest paid this period	Interest paid year-to-date
0.42%	30	434.05	0.15	0.00

Deposits and Other Additions

Description	Items	Amount
Deposits	1	1,750.00
Other Additions	1	0.15
Total	2	1,750.15

Checks and Other Deductions

Description	Items	Amount
Checks	3	1,725.00
Other Deductions	1	0.15
Total	4	1,725.15

Daily Balance

Date	Ledger balance	Date	Ledger balance	Date	Ledger balance
04/01	5.22	04/17	1,005.22	04/29	30.22
04/15	1,755.22	04/27	505.22	04/30	30.22

IOLTA/IOTA Checking

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For the period 04/01/2015 to 04/30/2015

WILLIAM H TRUAX ATTY AT LAW

Primary account number: [REDACTED] 8638

Page 2 of 2

IOLTA/IOTA Checking Account number: [REDACTED] 8638 - continued

Activity Detail

Deposits and Other Additions

Deposits

Date posted	Amount	Transaction description	Reference number
04/15	1,750.00	Deposit	001341079

Other Additions

Date posted	Amount	Transaction description	Reference number
04/30	0.15	Interest Payment	I-GEN115043000113737

Checks and Other Deductions

Checks and Substitute Checks

* Gap in check sequence

Date posted	Check number	Amount	Reference number	Date posted	Check number	Amount	Reference number	Date posted	Check number	Amount	Reference number
04/17	1368	750.00	090195685	04/27	1369	500.00	095510951				
				04/29	1370	475.00	089706424				

Other Deductions

Date posted	Amount	Transaction description	Reference number
04/30	0.15	State Interest Remittance Debit	I-GEN115043000113738

Special opportunity for business owners during Small Business Month

Join us for a live, free and educational webcast on **May 27, 2015** from 12:30 - 2:00pm ET.

Barbara Corcoran, star of ABC's the Shark Tank, Founder of the Corcoran Group and Chairman of Babara Corcoran Inc. will share her frontline experience and infectious energy to each person on the webcast. You will laugh, cry, and learn tips for becoming more successful. Motivational, inspirational, and sometimes outrageous, her tell-it-like-it-is attitude is a refreshing approach to success.

Visit pnc.com/sbmonth to register and learn more.

IOLTA/IOTA Checking

PNC Bank

For the period 05/01/2015 to 05/29/2015

WILLIAM H TRUAX ATTY AT LAW
 IOLTA CLIENT TRT FUND
 IOLTA TRUST ACCOUNT
 PO BOX 6433
 COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 8638

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 For hearing impaired clients only

IOLTA/IOTA Checking Summary

Account number: [REDACTED] 8638

Overdraft Protection has not been established for this account.

Please contact us if you would like to set up this service.

William H Truax Atty At Law
 IOLTA Client Trt Fund
 IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
30.22	45.00	65.00	10.22

Deposits and Other Additions

Description	Items	Amount
Other Additions	1	45.00
Total	1	45.00

Checks and Other Deductions

Description	Items	Amount
Checks	2	65.00
Total	2	65.00

Daily Balance

Date	Ledger balance	Date	Ledger balance
05/01	30.22	05/06	30.22
05/05	14.78-	05/12	10.22

Activity Detail

Deposits and Other Additions

Other Additions

Date posted	Amount	Transaction description	Reference number
05/06	45.00	Reverse Check Effective 05-05-15	089678197

IOLTA/IOTA Checking

For 24-hour account information, sign on to
pnc.com/mybusiness/

For the period 05/01/2015 to 05/29/2015
WILLIAM H TRUAX ATTY AT LAW
Primary account number: [REDACTED] 8638
Page 2 of 2

IOLTA/IOTA Checking Account number: [REDACTED] 8638 - continued

Checks and Other Deductions

Checks and Substitute Checks

* Gap in check sequence

Date posted	Check number	Amount	Reference number	Date posted	Check number	Amount	Reference number	Date posted	Check number	Amount	Reference number
				05/05	1371	45.00		05/12	1373 *	20.00	003919863

IOLTA/IOTA Checking

PNC Bank

For the period 05/30/2015 to 06/30/2015

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IOLTA CLIENT TRT FUND
IOLTA TRUST ACCOUNT
PO BOX 6433
COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 8638

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Number of enclosures: 0

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For hearing impaired clients only

IOLTA/IOTA Checking Summary

Account number: [REDACTED] 8638

Overdraft Protection has not been established for this account.

Please contact us if you would like to set up this service.

William H Truax Atty At Law
IOLTA Client Trt Fund
IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
10.22	0.00	0.00	10.22

Deposits and Other Additions

Total 0

Checks and Other Deductions

Total 0.00

IOLTA/IOTA Checking

PNC Bank

For the period 07/01/2015 to 07/31/2015

WILLIAM H TRUAX ATTY AT LAW
 IOLTA CLIENT TRF FUND
 IOLTA TRUST ACCOUNT
 PO BOX 6433
 COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 8638

Page 1 of 2

Number of enclosures: 0

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IOLTA/IOTA Checking Summary

Account number: [REDACTED] 8638

Overdraft Protection has not been established for this account.
 Please contact us if you would like to set up this service.

William H Truax Atty At Law
 IOLTA Client Trf Fund
 IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
10.22	0.01	0.01	10.22

Interest Summary

Annual Percentage Yield Earned (APYE)	Number of days in interest period	Average collected balance for APYE	Interest paid this period	Interest paid year-to-date
1.16%	31	10.22	0.01	0.00

Deposits and Other Additions

Description	Items	Amount
Other Additions	1	0.01
Total	1	0.01

Checks and Other Deductions

Description	Items	Amount
Other Deductions	1	0.01
Total	1	0.01

Daily Balance

Date	Ledger balance	Date	Ledger balance
07/01	10.22	07/31	10.22

Activity Detail

Deposits and Other Additions

IOLTA/IOTA Checking

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For the period 07/01/2015 to 07/31/2015

WILLIAM H TRUAX ATTY AT LAW

Primary account number: [REDACTED] 8638

IOLTA/IOTA Checking Account number: [REDACTED] 8638 - continued

Page 2 of 2

Other Additions

Date posted	Amount	Transaction description	Reference number
07/31	0.01	Interest Payment	I-GEN115073100118581

Checks and Other Deductions

Other Deductions

Date posted	Amount	Transaction description	Reference number
07/31	0.01	State Interest Remittance Debit	I-GEN115073100118582

IOLTA/IOTA Checking

PNC Bank

For the period 08/01/2015 to 08/31/2015

WILLIAM H TRUAX ATTY AT LAW
IOLTA CLIENT TRT FUND
IOLTA TRUST ACCOUNT
PO BOX 6433
COLUMBUS OH 43206-0433

Primary account number: [REDACTED] 3638

Page 1 of 2

Number of enclosures: 0

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 Write to: Customer Service
PO Box 609
Pittsburgh, PA 15230-9738

 Visit us at PNC.com/mybusiness/

 TDD terminal: 1-800-531-1648
For hearing impaired clients only

IMPORTANT ACCOUNT INFORMATION FOR BUSINESS CUSTOMERS

The information below amends the Business Checking Accounts and Related Charges. All other fees and requirements remain the same. Please read this information carefully and retain it with your records.

EFFECTIVE OCTOBER 1, 2015

WIRE TRANSFERS

- > The Domestic Incoming Wire Transfers fee will be \$15.00 each
- > The Domestic Outgoing Branch-Initiated Wire Transfers fee will be \$78.00 each
- > The Domestic Outgoing Voice-Initiated Repetitive Wire Transfers fee will be \$25.00 each
- > The Domestic Outgoing Voice-Initiated One-Time Wire Transfers fee will be \$28.00 each
- > The International Incoming Wire Transfers fee will be \$19.00 each
- > The Wire Transfer Manual Repair fee will be \$15.00 each
- > The Incoming Book Transfers fee will be \$3.75 each
- > The Outgoing Branch-Initiated Book Transfers fee will be \$65.00 each
- > The Outgoing Voice-Initiated Book Transfers fee will be \$15.00 each
- > The Federal Tax Payments fee will be \$30.00 each
- > The Mail Advice fee will be \$6.00 each

AUTOMATED CLEARING HOUSE (ACH) SERVICES

- > The ACH Origination Maintenance fee will be \$45.00 per month

IMPORTANT INFORMATION ABOUT ATM TRANSACTIONS AND PURCHASES

Under certain conditions we may allow you to complete a transaction that may cause an overdraft to your business checking or money market account when using your PNC Bank Business Visa® Debit Card at PNC Bank ATMs, non-PNC ATMs, and for merchant purchases. At PNC Bank ATMs we can give you the choice to cancel the transaction if it would cause an overdraft. We are not able to provide you this choice at a non-PNC Bank ATM or when making merchant purchases.

If you would prefer that we not allow overdrafts for card transactions at the ATM or merchant, please call us at 1-877-222-5401, Monday - Friday, 7 a.m. - 10 p.m.; Saturday and Sunday, 8 a.m. - 5 p.m. (ET), to opt-out. If you do so, we will decline transactions if your available funds are not sufficient to cover them.

If you have called previously to opt-out, you do not need to call again.

IOLTA/IOTA Checking

For 24-hour account information, sign on to pnc.com/mybusiness/

For the period 08/01/2015 to 08/31/2015
 WILLIAM H TRUAX ATTY AT LAW
 Primary account number: [REDACTED] 3638
 Page 2 of 2

For more information, please see our Business Checking Accounts and Related Charges and / or Account Agreement for Business Accounts, Payment of Overdrafts for Card Transactions section.

IOLTA/IOTA Checking Summary

Account number: [REDACTED] 3638
 Overdraft Protection has not been established for this account.
 Please contact us if you would like to set up this service.

William H Truax Atty At Law
 IOLTA Client Trf Fund
 IOLTA Trust Account

Balance Summary

Beginning balance	Deposits and other additions	Checks and other deductions	Ending balance
10.22	150.00	150.00	10.22

Deposits and Other Additions

Description	Items	Amount
Deposits	1	150.00
Total	1	150.00

Checks and Other Deductions

Description	Items	Amount
Checks	1	150.00
Total	1	150.00

Daily Balance

Date	Ledger balance	Date	Ledger balance	Date	Ledger balance
08/01	10.22	08/04	160.22	08/05	10.22

Activity Detail

Deposits and Other Additions

Deposits

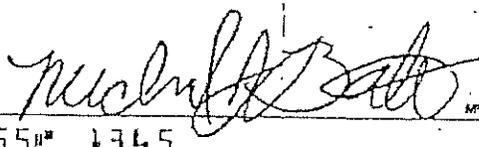
Date posted	Amount	Transaction description	Reference number
08/04	150.00	Deposit	008808611

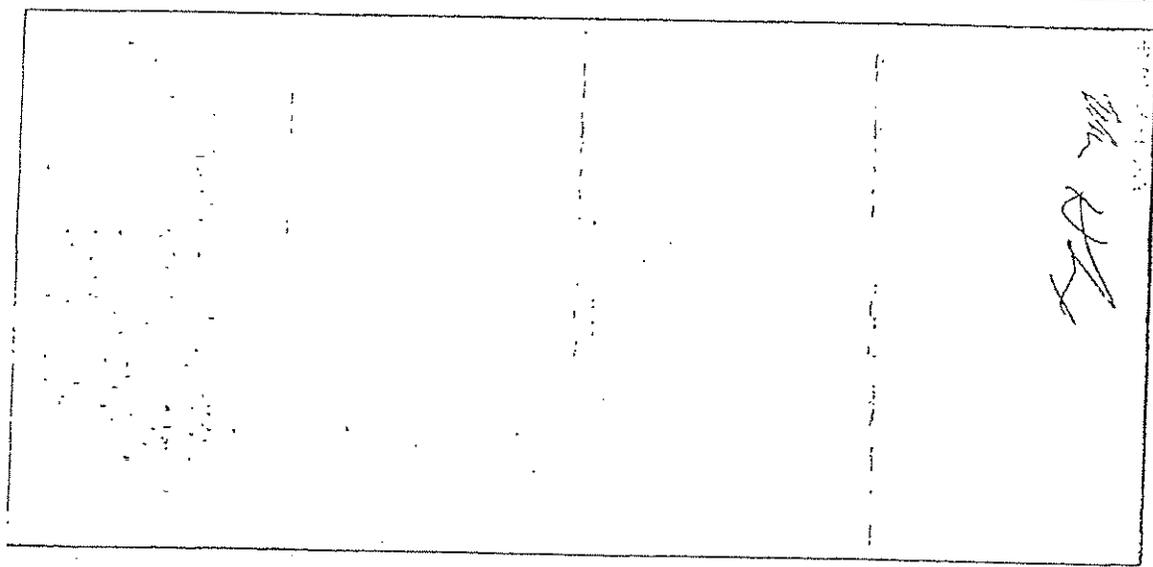
Checks and Other Deductions

Checks and Substitute Checks

* Gap in check sequence

Date posted	Check number	Amount	Reference number	Date posted	Check number	Amount	Reference number
08/05	1375	150.00	003352180				

MICHAEL J BATES 04/02 12423 BUTTERFIELD DRIVE PICKERINGTON OHIO 43147		1345 25-77252440
Date <u>04-15-15</u>		
Pay to the Order of <u>William H. Truax</u>	\$ <u>1750.⁰⁰</u>	
<u>one thousand seven hundred and fifty dollars</u>		
		
For _____		
MICR line: ⑆ 244077255⑆ [REDACTED] 4655⑈ 1345		



Posting Date 2015 Apr 15

Account Number 0

ERIC M SILVER
 156 CLINTON HEIGHTS
 COLUMBUS, OH 43202

200

July 31/2015
DATE 25-1574/440

PAY TO THE ORDER OF William Triad \$ 150.00

One Hundred & Fifty & ⁰⁰/₁₀₀ DOLLARS  Banking Features Available Here

CS BANK
 COOPER STATE BANK
 Open 7 Days

CS BANK CLUB 50

FOR Fee Eric Silver M*

⑆044015747⑆ [REDACTED] 4799⑈0200

⑆044015747⑆ [REDACTED] 4799⑈0200

20150804⑆000800808612⑆07000099007

Handwritten signature

Posting Date 2015 Aug 04

Account Number 0

WILLIAM H TRUAX ATTY AT LAW 06-85 1368
IOLTA CLIENT TRT FUND
 PO BOX 8433 E-12/410
 COLUMBUS, OH 43206-0433 069

Date 4/16/15

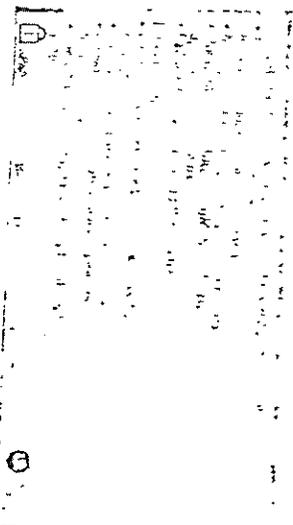
Pay to the Order of William H Truax | \$ 750.00
Seven Hundred and fifty Dollars

PNC BANK
 PNC Bank, N.A. 070

For fe WHT

⑆04⑆1000⑆24⑆ ⑆8638⑆ ⑆368

Harold Clarke



091000022494162015
 E 7534 ID 305 PKJ 01
 5177166335

WHT

Posting Date 2015 Apr 17
 Account Number 8638

WILLIAM H TRUAX ATTY AT LAW 08-85
 IOLTA CLIENT TRT FUND
 PO BOX 6433
 COLUMBUS, OH 43206-0433

1369
6-12/410
069

Date 4/24/15

Pay to the Order of William Trust \$ 500.00
 Five Hundred and no/100 Dollars

PNC BANK
 PNC Bank, N.A. 070

For Jan [Signature]

⑆041000124⑆ [REDACTED] 8638 1369

Forward Date

49100002240424015
 E 0975 ID 305 FKT 01
 4974181539

Handwritten initials/signature

Posting Date 2015 Apr 27

Account Number [REDACTED] 8638

WILLIAM H TRUAX ATTY AT LAW 08-85
 IOLTA CLIENT TRF FUND
 PO BOX 6433
 COLUMBUS, OH 43208-0433

1370
6-12/410
069

Date 4/29/15

Pay to the Order of William Truax \$ 475.00
Four Hundred Seventy Five Dollars

PNC BANK
 PNC Bank, N.A. 070

For fe Wm Truax

⑆04⑆000⑆24⑆⑆ [REDACTED] 8638⑈ 1370

⑆09⑆000⑆224⑆4282615
 E 2255 ID 385 PKT 01
 5875191104

Wm Truax

Posting Date 2015 Apr 29
 Account Number [REDACTED] 8638

WILLIAM H TRUAX ATTY AT LAW 08-85 1371
IOLTA CLIENT TRT FUND
 PO BOX 6433
 COLUMBUS, OH 43206-0433

E-12/410
069

Date 5/4/15

Pay to the Order of William Truax \$ 45.00
Forty Five and 00/100 Dollars

 **PNC BANK**
PNC Bank, N.A. 070

For fees Mr. Truax

MICR Line: @041000124 @ [REDACTED] 8638 1371

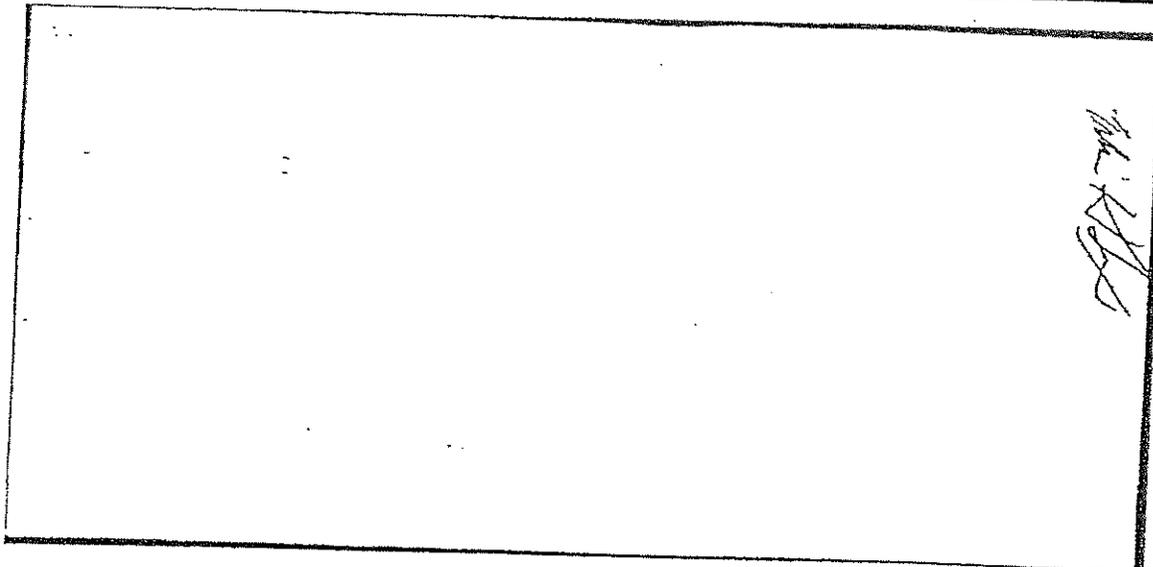
Posting Date 2015 May 05

Account Number [REDACTED] 8638

499 1600022495642615
 E 4544 ID 385 PRT 01
 497 4800024

MR. TRUAX

WILLIAM H TRUAX-ATTY AT-LAW 06-85		1375
IOLTA CLIENT TRF FUND		
PO BOX 6433 COLUMBUS, OH 43206-0433		6-17/410 019
Date <u>8/5/15</u>		
Pay to the Order of <u>William H Truax</u>	\$ <u>150.00</u>	
<u>One Hundred Fifty</u>		Dollars
PNC BANK PNC Bank, N.A. 070		
For <u>Fee - Silver</u>	<u>Wm H Truax</u>	
⑆04⑆000124⑆ [REDACTED] 8838⑈ 1375		



Posting Date 2015 Aug 05
 Account Number [REDACTED] 3638

ITEMIZED STATEMENT FOR ANJELICA HYNES AS OF 7/22/15

4/19/15	Prepare counterclaim	.25	
4/20/15	Attend hearing; conference with client-prepare affidavits		1.00
5/4/15	letter to plaintiff;	.10	
5/4/15	Letter to client	.10	
5/4/15	E-file pleadings	.25	
6/19/15	Review email from opposing counsel	.10	
6/19/15	Voice mail to client	.10	
6/23/15	Voice mail from client	.10	
6/23/15	Forward opposing counsel's email to client	.10	
6/26/15	Review email from opposing counsel (letter & SPP); Forward email to client		.25
6/29/15	Attend hearing	1.75	

TOTAL HOURS: 4.10

FEES: $4.10 \times \$175.00 = \717.50

Balance * 1032.50

Stipulated
Exhibit 2

WILLIAM H. TRUAX

P.O. BOX 6433

COLUMBUS, OHIO 43206

Attorney at Law

Telephone 614-221-1511

Fax 614-228-1757

E-Mail williamtruax79@gmail.com

July 29, 2015

RECEIVED
ACO
JUL 30 2015

Disciplinary Counsel
Supreme Court of Ohio

Amy C. Stone, Esq.
Assistant Disciplinary Counsel
The Supreme Court of Ohio
250 Civic Center Drive
Suite 325
Columbus, Ohio 43215

Re: ODC File No. B5-0972

Dear Ms. Stone:

Thank you for granting me an extension of time to respond to your letter of inquiry dated June 30, 2015. I have enclosed copies of the following documents you requested:

a) My official bank-generated monthly statements for my IOLTA account at PNC Bank for the months of April 2015, May 2015 and June 2015, which include copies the checks, their dates and numbers;

b) Individual client ledger for Anjelica Hynes, the only client affected by the overdraft, consisting of an itemized statement for services rendered to her between the April 15, 2015 date of her payment of a retainer of \$1750 and the date of July 22, 2015;

c) The original fee agreement entered into with Ms. Hynes on April 15, 2015.

Ms Hynes address is 695 Cherrymonte Drive, Columbus. Ohio and her cell phone number is (614) 581-7358. As for the overdraft, I miscalculated the balance in the account by

Stipulated
Exhibit 3

approximately \$15.00 and issued a check to myself in the amount of \$45.00 which was not honored by PNC Bank. However, review of the documentation shows that I withdrew funds from the IOLTA account before I had performed sufficient services to be entitled to make the withdrawals. Unfortunately, my financial situation was so bad that I needed funds to pay my phone bills and personal expenses, especially food.

I met with Ms. Hynes and her significant other, Michael Bates, on July 22, 2015, and made a full disclosure of the facts. Mr. Bates lives with Ms. Hynes and his cell phone number is (614) 286-8329. At that meeting, Ms. Hynes signed an amended fee agreement which deleted the language "non-refundable" as to the retainer, accepted a copy of the itemized statement referred to in paragraph b) above and signed the notice required by Rule 1.4 of the Ohio Rules of Professional Conduct regarding the lack of professional liability insurance, which notice I had failed to provide at the time I was initially retained. I have enclosed copies of the amended fee agreement and notice for your review.

It is obvious that I have placed myself in an untenable situation. I advised my client as to my conversion of funds and offered to refund that amount to her, or the entire initial retainer, if she so desired. I requested that she provide me with written instructions as to how she wished to proceed but have not received the same as of the writing of this correspondence. It is my desire to fully cooperate with your office in this matter and hope that we may communicate in person sometime in the future in order to resolve these issues in a mutually agreeable manner. Of course, if you need any additional information, please contact me.

Very truly yours,



William H. Truax