BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 228 DB 2018
v.	:	Attorney Registration No. 86967
CLAIR MICHELLE STEWART Respondent	:	(Philadelphia)

ORDER

AND NOW, this 21st day of December, 2018, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

ORDERED that the said CLAIR MICHELLE STEWART. be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:

Board Chair

TRUE COPY FROM RECORD
Attest:

Rachel Nusinov
Administrative Assistant
The Disciplinary Board of the
Supreme Court of Pennsylvania

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CLAIR MICHELLE STEWART Respondent	:	Attorney Registration No. 86967 (Philadelphia)

PUBLIC REPRIMAND

Clair Michelle Stewart, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Ms. Stewart, the record indicates that you are a sole practitioner who frequently handles trust and estates cases. In 2011, Valerie Washington-Coleman retained you to assist her in administering the Estate of Tyrone Bing. In 2012, Gwendolyn Edwards retained you to assist in administering the Estate of Rosalie Hare, and in 2016, Ms. Edwards retained you to assist in administering the Estate of Annie Edwards. Also in 2016, Ms. Edwards retained you to pay inheritance tax for the Estate of Daniel White.

On two occasions, you took funds from one estate to pay the administrative fees and costs on another estate. On September 24, 2012, you took $783.50 from the Bing Estate to pay expense of the Hare Estate; on October 18, 2012, you reimbursed the Bing Estate. On May 27, 2016, you took $2,370 from the Bing Estate to pay the expenses in the Edwards Estate; on May 30, 2017, you reimbursed the Bing Estate.

After Office of Disciplinary Counsel began its investigation into this matter, it was discovered that you erroneously received double payment of $18,000 in attorney fees for your handling of the Bing Estate. You have since reimbursed your client in full for the overpayment.

You maintained an IOLTA account and a business account at TD Bank. From at least September 2012 until August 2017, you mishandled fiduciary funds in your IOLTA account. You wrongly deposited personal funds into your IOLTA account; paid personal and business expenses directly from your IOLTA account with commingled funds on multiple occasions; advanced funds from your IOLTA account to pay estate fees and costs in your clients' matters; and kept personal funds in your IOLTA account.

On October 11, 2011, you withdrew $3,690 from your IOLTA account and deposited the funds into your business account. At that time, you had not earned the funds, and you had a balance of $540.58 in your business account. You used the funds withdrawn from the IOLTA account to pay your personal expenses, and thereby misappropriated $3,690 from your IOLTA account. On October 14, 2011, you reimbursed $3,074 to your IOLTA account, and on February 10, 2012, you reimbursed $616 to your IOLTA account.

You failed to comply with various aspects of RPC 1.15 by failing to perform monthly reconciliations of your accounts, and you falsely certified on your annual attorney registration statement that you were in compliance with RPC 1.15.

As a result of your conduct, you have violated the following Rules of Professional Conduct ("RPC"):

1. RPC 1.15(b) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.
2. RPC 1.15(c) (effective 2/28/15) – Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall also maintain... books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to 1.15(l).
3. RPC 1.15(h) – A lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose.
4. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

It is my duty to reprimand you for your misconduct. We note that you have practiced law since 2001 and have no prior discipline. We further note that you cooperated with Office of Disciplinary Counsel's investigation and on your own initiative,

took Continuing Legal Education courses on avoiding disciplinary claims, specifically as to RPC 1.15 violations. Please be aware that any subsequent violations on your part can only result in further discipline and perhaps more severe sanctions. We sincerely hope that you will conduct yourself in such a manner that future disciplinary action will be unnecessary.

Ms. Stewart, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org

Designated Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Philadelphia, Pennsylvania, on April 18, 2019.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in her presence and in the presence of the designated panel of The Disciplinary Board at the Board offices located at the 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania, on April 18, 2019.

Clair Stewart

Clair Michelle Stewart