

BLAKE S. ATKIN
(Public Reprimand)

The Professional Conduct Board has issued a Public Reprimand to Clifton, Idaho attorney Blake S. Atkin, based on professional misconduct. The Professional Conduct Board's Order followed a stipulated resolution of a reciprocal proceeding in Idaho based on a Utah disciplinary proceeding. On November 2, 2023, the Third Judicial District Court for Salt Lake County, Utah issued an Order of Discipline: Public Reprimand finding that Mr. Atkin violated Utah Rule of Professional Conduct ("U.R.P.C.") 8.1(b) [Bar Disciplinary Matter; Failure to Respond to Lawful Demand for Information]. This U.R.P.C. corresponds to the same Idaho Rule of Professional Conduct.

The Public Reprimand relates to the following circumstances. In July 2021, the Utah State Bar Office of Professional Conduct ("OPC") received a trust account overdraft notification from a bank regarding an IOLTA account for Atkin Law Offices PC, and that when a certain check was presented for payment in June 2021, the balance of funds in that account was insufficient to pay the amount for which the check was drawn. The OPC thereafter sent a letter to Mr. Atkin requesting his explanation of why the overdraft occurred and indicated that his explanation should include a copy of the check creating the overdraft, the identity of the client on whose behalf the check was issued, a copy of the client's subsidiary ledger, and a copy of the monthly trust account bank statements for the month in which the overdraft occurred and the two previous months.

Mr. Atkin responded by stating that the check was made to himself for fees charged to one client over several months, that the overdraft occurred because he did not realize the account had been depleted to the point that it did not meet that month's billing, that he withdrew the amount indicated on the check from the account because he had

billed his client over a period of months for that amount of work performed and that the money was earned. Mr. Atkin provided a copy of the check causing the overdraft and explained that it was payable to his firm. The check referenced one client's name in the memo line. Mr. Atkin refused to produce the information requested by the OPC, such as monthly bank statements, billing records, ledgers and accounting records because of his confidentiality obligations to his clients under U.R.P.C. 1.6.

The OPC thereafter sent several letters to Mr. Atkin explaining that certain disclosures of confidential information were permitted under U.R.P.C. 1.6. In these letters, the OPC again requested Mr. Atkin's monthly financial statements and billing records for the client whose fees were involved in the check that created the overdraft. Mr. Atkin responded but continued to object to the OPC's request and refused to provide the requested information. The OPC subpoenaed Mr. Atkin's bank statements but the information was inconclusive without his billing records to determine when the funds connected to the subject client were deposited into his trust account.

Finally, because Mr. Atkin refused to comply with OPC's demands for his billing records, it filed a Complaint against Mr. Atkin in District Court in December 2022, alleging violations of U.R.P.C. 1.5(a), 1.15(a), 1.15(c) and 8.1(b) by knowingly refusing to respond to a lawful demand for information from a disciplinary authority, by obstructing the OPC's investigation of the insufficient funds notice, and by failing to provide documents necessary for OPC's investigation of insufficient funds in his trust account. During the discovery phase of the case, Mr. Atkin still refused to produce the requested documents until the District Court ordered him to and he complied and produced redacted copies.

In October 2023, the OPC and Mr. Atkin entered into a Discipline by Consent and Settlement Agreement whereby Mr. Atkin admitted that he violated U.R.P.C. 8.1(b) in that he knowingly refused to respond to a lawful demand for information from a disciplinary authority based on his reliance on U.R.P.C. 1.6, that he obstructed and delayed the OPC's investigation of the insufficient funds notice, and that Mr. Atkin's failure to provide the documents necessary for OPC's investigation of insufficient funds in his trust account resulted in a District Court case being filed. In recommending that a Public Reprimand be imposed, the parties stipulated that a mitigating circumstance was the absence of a dishonest or selfish motive because Mr. Atkin believed he was protecting his clients.

The Public Reprimand does not limit Mr. Atkin's eligibility to practice law.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.