

Robert B. Sullivant, Jr.
1002 Crawford Cir.
Oxford, MS 38655

To: Office of General Counsel
Mississippi Bar Association
P.O Box 2168
Jackson, MS 392256

February 10th, 2023

In RE: Formal Bar Complaint Against Attorney Swayze Alford; MS Bar No. 8642; 1221
Madison Avenue, Oxford, MS 38655

Office of General Counsel,

My name is Robert Sullivant Jr and I hereby submit the following complaint against Attorney Swayze Alford. I do so with full knowledge of the facts and circumstances alleged herein and could competently testify to the truth of such facts and circumstances if required.

I first became involved with Mr. Alford when he filed a lawsuit against me on behalf of Father, Robert Sullivant Sr (hereafter known as "SR"). This case is still active in the Chancery Court and can found under case number 2021:612(W).

The foregoing case involves multiple claims and counterclaims, primarily based on the need for a Conservatorship for SR, and the scope of the parties' power of attorney agreement. More precisely, the lawsuit brought against me alleges fraud for misusing and misappropriating funds that allegedly belonged to my father and that I had full legal control over in accordance with our power of attorney agreement. Also, involves the undue influence of my father's sitter, Evelyn Stevens, who betrayed me in helping me get the two required IME's for a conservatorship, and told my father I was going to put him in a conservatorship and then put him in a mental asylum. The mental asylum part was not true, but was to end my father's compulsion of writing \$1,000 of checks to mail scams.

Mr. Alford brought this action on October 25th, 2021, alleging thirteen (13) counts against the me. These charges are premised on a series of financial transactions involving the two parties from a joint account we held together. This joint account was used to deposit the proceeds from the sale of a home that was jointly owned by both parties. I first sought Counsel in this matter from Attorney Brad Golman, who represented the me early on in these proceedings.

On February 8th, 2022, the court entered a stipulated agreement between Attorney Golman and Attorney Alford (See Attachment 1). This agreement dictated two essential terms; (1), That Sr's proceeds from a land sale were to remain in a trust account held by Mr. Alford until further

ordered by the court, and (2) Attorney Alford was to arrange for an IME for his client so that would be compliant with the GAP Act of 2019.

Mr. Alford blatantly violated this order, and caused my father and I severe damage. On December 9th, 2022, the I received subpoenaed documents from FNB Bank regarding the accounts of SR. (*See Attachment 2*). These documents show that SR was given access to the funds that Mr. Alford was explicitly ordered to hold in trust. Not only was Plaintiff allowed access to these funds, Mr. Alford also allowed for Ms. Evelyn Stevens to have access to the money as well; who's undue influence and criminal manipulation of my Father and his finances will be further discussed below.

Predictably, my father, in his diminished mental state, had been recklessly spending this money, which is my primary reason for the conservatorship. What's worse is that this was established very early on in the proceedings that the Plaintiff's capacity to handle his own finances is questionable at best. Mr. Alford should had known at that point, he was certainly put on notice once the IME of Dr. Brian Thomas was reported, which made it very clear that the Plaintiff is not mentally capable of handling his finances. (*See Attachment 3*). It is also clear that Mr. Alford is not capable of carrying out his duties as an officer of the court.

My Father was ordered by the court to have two IME's. One with Dr. Thomas, and the other with Dr. Hobbs. The opinion of Dr. Hobbs was grossly inadequate and I had to hire a subsequent attorney (Mitchell Driskel) to move to strike this opinion, as my previous attorney was not very professional or attentive to the case. Mr. Alford attempted to play games with the Hobbs' IME, by not executing the IME court order despite a verbal agreement with my prior counsel Brad Golman, until he got the Hobbs' opinion back and was favorable to him.

Mr. Driskell filed the motion to strike Hobbs on June 20th 2022, and sent Mr. Alford an email with available setting dates from July 6th to August 31st. Mr. Alford selected August 30th. The second to furthest date out. In a motion hearing in December of 2022, Mr. Alford stated the delay was due to my attorney not being available sooner because he is public defender. That was a lie told to Judge Whitwell in open court. (*See Attachment 4 Pg 53 Ln 7*). Mr. Driskell was available all the days he submitted in the email. I allege that Mr. Alford was consciously delaying the proceedings as long as possible to delay the inevitable and undesirable result of me becoming my father's conservator and covering up his unethical behavior by the act of lying in open court.

I had informed my prior counsel Mr. Driskell of Mr. Alford's playing at best 'loose' with the court rules, postponing hearings, and not acting in good faith on his agreement to postpone. I directed Mr. Driskell to not postpone any hearing at the last second with Mr. Alford without a satisfactory agreed order in hand. This was a reasonable and prudent decision on my part given Mr. Alford's history of bad faith behavior and negotiations in this matter.

On August 29th 2022, Mr. Driskell sent me a text (*See Attachment 5*) stating that we won the motion, and the hearing was canceled. He stated that Mr. Alford called him late on Sunday to capitulate and agree to an order. Mr. Driskell sent Mr. Alford a proposed order the very next day.

On September 12th (two-weeks later), I still did not have the agreed order that Mr. Alford had promised to sign in order to cancel a hearing, nor a reason from Mr. Driskell for Mr. Alford's irregular delay. I sent Mr. Driskell an email to this effect and shortly thereafter I terminated him from my case and decided to proceed pro se due his lack of diligence and overall attentiveness to my case.

On September 27th I filed the *Motion for Order of the Order and Motion to Compel* (See Attachment 6). A motion to get the promised order to strike Hobbs, and motion to compel discovery that I will explain below. On October 31st, the Agreed Order to Exclude Testimony was finally executed by Mr. Alford and filed. This order struck the Hobbs opinion some 33 days after verbally agreed to strike, and requiring a subsequent motion to compel the verbally promised order was filed.

Since I had not heard of any progress toward a 2nd IME, I filed on November 3rd, *Motion for Order to Compel the Second Exam of the Agreed Order For Independent Medical Exams* (See Attachment 7). On January 31st, 2023 I received from Mr. Alford's office the 2nd IME from Dr. Perkins (See Attachment 8) The IME confirmed the 1st IME that I had organized, again stating that my father does not have the mental capacity to make financial decisions and that a conservator should be appointed.

In conclusion of the IME matter, an agreed order was verbally agreed to on January 28th, 2022. Approximately 368 days had lapsed before Mr. Alford provided his GAP compliant court ordered IME. This is compelling evidence of Mr. Alford's malicious and conscious abuse of the court rules, which have caused my Father (his own client) serious harm, and has also caused incalculable and superfluous emotional damage to our relationship; not to mention the extreme financial damages suffered by both Myself and my father.

Regarding the *Motion for Order of the Order and Motion to Compel*, I had asked my prior counsel, Mr. Golman in February of 2022 to request the sales documents relating to a recent purchase of a pick-up truck by my father. Mr. Golman refused and declared that my father has the right to buy a pick-up truck. I believed the documents would have value to my case, particularly when demonstrating the undue influence of Ms. Stevens, and how the purchase was funded. I pushed Mr. Golman again to compel these documents. Afterwards he stated that he had verbally asked Mr. Alford for the documents but was unable to compel them. Upon Mr. Golman realizing I was about to terminate him, he filed *Defendant's 2nd Set of Combined Discovery* (see attachment 9) to compel the production of the truck sales documents on April 22nd, 2022. Mr. Alford did not comply with the discovery request.

My subsequent attorney, Mr. Driskell, sent Mr. Alford a letter on July 6th (see attachment 10) requesting the requested discovery. The letter was ignored by Mr. Alford. Per Mr. Driskell on the August 30th date for the motion to strike Hobbs, he was also to move on compelling the truck sales documents. In Mr. Driskell's text to me on August 28th (attachment 5), he stated that the truck sales documents were to be included in the agreed order. I never got the requested discovery. As stated above on September 27th, I filed a motion to compel the April 22nd requested discovery. Finally on November 2nd Mr. Alford sent me the truck sales document via email, which I am certain Mr. Alford had in his possession prior to November 2nd.

Mr. Alford's delay in producing these documents was quite telling. It is likely that Mr. Alford withheld the production knowing that Evelyn Steven's name was shown as an owner of the truck and that this would obviously not be good for him. Also, I believe Mr. Alford was aware that the funds to pay for the truck were funds that had been court ordered to stay in his trust account. The fact of her ownership of the truck paid for from my father's illegal account led me to depose Ms. Stevens. In the deposition she testified that her name was on two accounts at FNB Oxford. I subpoenaed the account information and transactions from FNB Oxford. That information led me to discover that *Mr. Alford had never put the land proceeds into his trust account*, that Ms. Stevens name was on the account, that \$59,000 had been squandered by my father. At this point I drafted TRO to the court asking to freeze the funds. However, after filing the TRO motion I conferred with Mr. Alford, who at this point decided to cooperate with the court's orders.

It is abundantly clear that Mr. Alford overtly and consciously violated the court rules of procedure and discovery because it would eventually expose his violation of the court order and the damage that violation caused.

After having to terminate two attorneys, I get the Hobbs opinion stricken; a 2nd favorable IME, was able to sell the truck, take Ms. Steven's names off of the accounts, had the lost funds returned to the accounts, and the accounts frozen. All these actions unnecessary and a result of Mr. Alford's malfeasance, violations of the Mississippi Rules of Professional Conduct, violations of numerous MRCP, and his oath as officer of the court.

At the hearing on setting aside default, Mr. Alford declared that he spoke to Brad Golman about putting the proceeds into an account other than Mr. Alford's trust account. He states or implies that Mr. Golman agreed with him. Then he states that he "failed to follow up with a second order" (see attachment 4 - pg 50 ln 29) I do not believe that is the case and that Mr. Alford's dialogue in open court was a lie. I had an email discussion with Mr. Golman of the proceeds (see attachment 11). Mr. Golman in an email to me states "Swayze is going to hold those [funds] in trust, until further ordered by the court. If he violates that term, he won't do that, but if he did, he would be in contempt personally...Your dad is not important enough to him to stick out his neck." I replied "that the funds are in Swayze's escrow account. That is good enough for me"

The fact that the funds were secured was a material and significant term to me of the court order. Mr. Golman was quite aware of the importance of that term to me, as is evidenced by the email correspondence. I do not believe Mr. Golman agreed to put the money in an account in father's name, and did not discuss it with me first. Mr. Golman did not ever discuss putting the proceeds in another account aside from Mr. Alford's escrow account. I request that Mr. Golman testify to Mr. Alford's allegation that he agreed to putting the funds into another account.

At the same hearing to set aside default, Mr. Alford states attempting to rationalize his overt delays in litigation that "[Mr. Driskell] couldn't do anything in July" (see attachment 4 Pg 53 Ln 53). This is a lie stated in open court by Mr. Alford, and goes to Mr. Alford purposefully delaying the litigation which prejudiced my father and myself.

My allegation for default was that Mr. Alford had failed to not only litigate my cross-claim as required by the MRCP, but to file an answer. This was a response to delaying complying with the IME court order. Specifically delaying complying with the January 2022 IME order for him to get a GAP compliant IME.

Another instance of Mr. Alford's lack of candor with the court is the return of farm equipment that I am a part owner of from my cousins, and was given to them in violation of a statement to my father not to give them the equipment. My father gave my cousins about \$75,000 of farm equipment which I demanded to be returned in my cross-complaint. My former attorney, Mitchell Driskell, sent my cousins a letter demanding the return of the equipment. Upon calling them, my cousin, Josh Vick, said he would call the sheriff's department if I tried to take it back. Further Mr. Alford stated "so, [the equipment] is just sitting there." Again, a statement lacking candor to influence the court and prejudice my claim in a material and significant manner. I have witnessed one cousin using the farm equipment for their own use, and have photographic evidence. My father has told me that my cousins are using the equipment including the second tractor. They have converted said farm equipment for their own use, which makes their actions a crime. Not only out, and out theft, but Criminal Elder Abuse (Miss. Code Ann. 43-47-19).

Mr. Alford's response in court to my cousins threatening to call the sheriff department, was "Hey, I don't doubt that. I think that for probably in the cousin's mind the equipment belongs to my client rather than him, so he may have said that. But I'm just saying the equipment is there, and hasn't been given away or sold" (Pg 54 Ln 14). To this statement, I declare, that my cousin's knew very well I was an owner of the equipment. Mr. Alford told me he has spoken to Calvin Vick (cousin) about the equipment prior to the sheriff threat. Mr. Alford knows and has not denied that I am an owner of the equipment. Mr. Alford knew I had a place to store the equipment.

Mr. Alford's statement in court was purposefully misleading, so that I will not get back what is justifiably mine, and demanded in my cross-complaint. He led the court to believe that the threat to call the sheriff and deny me access to my own equipment was a misunderstanding of the facts, when he knows that is was absolutely not. Mr. Alford wish my cousins to keep my equipment per my father's wishes, and deny my right to the equipment usings deceitful methods that are contrary to the MRCP.

In conclusion of the many examples of Mr. Alford's lack of candor in court and out and out lying in court. 1) Lying about the funds he did not put in his escrow and in overt disregard for a court order 2) lying about why we could not set a reasonable date to hear a motion to strike the obvious inappropriate Hobbs opinion to just to delay the inevitable. 3) Farm equipment. Mr. Alford has not won one legal argument in this case, and has no evidence to support . 4) Lying to the judge about the reason Hobbs' was struck. He can only meet his objective of delaying the inevitable by lying in court to influence the judge in a prejudicial and biased manner against me.

It may very well be that the judge erred when he just accepted out of hand Mr. Alford's excuses for his behavior, and not following thru with any action or sanction, but none the less, he was still in violation of the Mississippi Rules of Professional Code when he did.

Mr. Alford's gamesmanship and flouting of ethics does end here. I filed for summary judgement in this matter in early January 2023. Mr. Alford's opposition to this Motion deliberately and with calculation; misquoted holding cases, clipped out parts of quotes to suit his narrative, and omitted decisions and quotations from his own references that would have contradicted his narrative and legal argument. This tactical move of deliberately misconstruing caselaw is an overt violation of "candor towards the tribunal."

Rule 3.3(a)(2) of the Model Rules of Professional Conduct says, "A lawyer shall not knowingly fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel." Rule 11 of the Mississippi Rules of Civil Procedure says, "By presenting to the court a written motion an attorney certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law."

As a result of this clear professional and ethical violation, I had to spend my entire 10 page reply pointing out to the court that Mr. Alford deliberately misquoted caselaw and that he willingly and intentionally mislead the court in his response. I have attached his response (attachment 13) and my reply (attachment 14)(attachment 12 is included for context).

RULE 8.4(c)

Mississippi Professional Rule 8.4(c) provides that it is professional misconduct for an attorney to "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." This Court has defined dishonesty "as a `breach of honesty or trust, as lying, deceiving, cheating, stealing, or defrauding . . .'" Townsend v. State, 605 So.2d 767, 771 (Miss. 1992).

Mr. Alford has breached the trust of the courts, was deceitful, and misrepresented to the Court and to the Defendant his intention to keep the funds from the land sale in trust until further order. Instead, Mr. Alford willfully and knowingly allowed the my Father access to these funds and stood idly by while he went on a reckless spending spree, including the purchase of a \$41,000 truck for Evelyn Stevens. Mr. Alford doesn't attempt to deny this, in fact, he justifies it...(See Attachment 4); In an email to the Defendant regarding this matter, sent on December 12th, 2022, Mr. Alford explained that; "I really thought that I should try to earn some interest on the money for your Dad").

Mr. Alford's explanation that he was "trying to earn interest on the money" expressly speaks to his intent; which was to allow Mr. Sullivant SR and Ms. Stevens access to the funds without informing the court or the Defendant, in order to grow them. Mr. Alford knows that his duty to the Plaintiff's funds was to hold it in trust, not attempt to earn interest on it, and he admits to knowing this in the same email thread; "I am upset with myself, I should have followed up with an order".

Mr. Alford never checked on, nor reconciled the funds in the trust, and informed the Defendant AFTER his TRO was filed that he told his client to wait to purchase the truck until this case was

resolved. (*Attachment 12*). Meaning, Mr. Alford knew all along what his client's plans were with the money and allowed him to go forward with them.

Mr. Alford's willful and conscious act of allowing the funds to be distributed to SR while keeping it secret from the Myself and the Court is an unquestionable breach of Rule 8.4. Mr. Alford has shown that he is unwilling to perform his duties as an officer of the court and his deceit and misrepresentations, as well as egregious derelictions of duty to this court and his client, have cost his client significant money and forced me to take steps to retrieve unaccounted for funds totaling **\$56, 619.64**; and to freeze my Father's account so that Mr. Alford can no longer play with his money in an attempt to "earn interest".

RULE 8.4(d)

Mr. Alford also expressly violated Rule 8.4(d), which provides that it is professional misconduct for an attorney to "engage in conduct prejudicial to the administration of justice." The Supreme Court has held that conduct prejudicial to the administration of justice is synonymous with "'conduct unbecoming a member of the bar' [or] conduct contrary to professional standards that shows an unfitness to discharge continuing obligations to clients or the courts." *In re Snyder* , 472 U.S. 634, 645(1985).

RULE 1.15

Rule 1.15(a) states in relevant part that;

(a) A lawyer shall hold clients' and third persons' property separate from the lawyer's own property. Funds shall be kept in a separate trust account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded."

Rule 1.15(c) states that;

(c)When a lawyer is in possession of property in which both the lawyer and another person claim an interest, the property shall be kept separate by the lawyer until completion of an accounting and severance of their respective interests. If a dispute arises concerning their respective interests, the lawyer shall disburse the portion not in dispute, and keep separate the portion in dispute until the dispute is resolved.

Mr. Alford explicitly violated both of these subparts to Rule 1.15 by allowing the Plaintiff access to funds that were ordered to be held in a separate trust account. Rather than keep these funds separate, Mr. Alford secretly allowed access to both the Plaintiff, and Evelyn Stevens. He did so purportedly to "earn interest" for the Plaintiff. Not only is Mr. Alford's explanation for breaching his express duties to the court and the parties involved in this matter absurd, it is also very suspect. The account in which the money was being held and accessed by the plaintiff was not a high interest yielding account. It is in a checking account which earns no significant interest, if any at all, thus contradicting Mr. Alford's explanation and requiring further scrutiny into how and why these funds were released to the Plaintiff and Ms. Stevens.

Mr. Alford's failure to disclose his knowledge of plaintiff's access to these funds and reckless spending is also a direct violation of Rule 3.3(a)(2), *Candor to the Tribunal*;

(a) A lawyer shall not knowingly;

(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client.

This failure of Mr. Alford also displays his violation of Rule 4.1(b), which states that;

In the course of representing a client a lawyer shall not knowingly;

(b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

Mr. Alford has indicated through a lack of candor and evasiveness, as well as his own admission, that he took a personal interest in his client's finances. His behavior has poisoned this matter and has opened the door to multiple inquiries directly related to the my Father's finances and his control and influence thereof. He also has a significant relationship with Ms. Evelyn Stevens, who undeniably has an authoritative and pernicious influence over the my Father's finances, as has been allowed by Mr. Alford.

Mr. Alford has gone so far as to blatantly evade discovery requests, deceive the me with false promises, and fail to disclose his knowledge of my Father's financial recklessness, and, his knowledge of the potential criminal abuse being perpetuated upon his client by Evelyn Stevens. I am currently in the process of submitting a criminal affidavit in order to facilitate charges against Ms. Stevens for criminal elder abuse, fraud and perjury, of which Mr. Alford may very well be a co-conspirator.

Ethics Opinion No. 205 of the Mississippi Bar explicitly states that: "An attorney is under an obligation to report the criminal misconduct of a non-client which prejudices the administration of justice." Not only has Mr. Alford not reported the criminal conduct of Evelyn Stevens, he has in fact facilitated it, on top of admittedly misappropriating client funds and funds ordered by the court to be held in trust by Mr. Alford. This blatant violation of basic ethical and professional duties, particularly when it comes to clients and trust funds, are not taken lightly by our courts; "Misappropriation of clients funds usually results in disbarment." Mathes v. Mississippi Bar, 637 So.2d 840, 847 (Miss. 1994). Furthermore, it is my opinion from participating in the deposition of Evelyn Stevens, which she did commit perjury in that Mr. Alford had coached he on what to say and not say. This alleged action could be construed as suborning testimony, and as stated above, I am in process putting that evidence together.

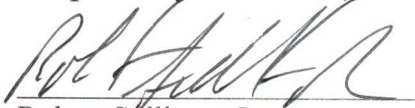
The 17 months of emotional torment and delay for my father and me is entirely a result of Mr. Alford's disregard for the ethics of his profession and rules of the court. I believe with certainty the matter with my father could have been avoided. Mr. Alford should of known if the sitter of an elderly, incapacitated man finds you, makes the appointment, accompanies on all appointments, brings no evidence of outlandish accusations that she is probably has ulterior motives. Certainly the actions she took by getting her name on \$400,000 of cash, a pickup, blocking the phone number of Sr's only living relative, and telling what turned out to be lies

about me, should had told Mr. Alford he was causing serious and irreparable damage of a father and son, and enabling the criminal behavior of Ms. Stevens. In addition, Mr. Alford did not even send me a demand letter, which could had prevented this tragic case of commencing. I could have easily demonstrated Ms. Stevens undue influence, and that there is no evidence of what Ms. Stevens alleged against me in the name of my father. It is a fact that there is still no evidence of the allegations against me, and substantially more evidence of Ms. Stevens' criminal actions.

Mr. Alford's overt, malicious and conscious disregard for the The Mississippi Rules of Professional Conduct, his oath to the Bar, his oath as an officer of the court has caused irreparable damage between my 89 year-old father and myself. I have lost 17 months of my life (so far) to fighting this malicious prosecution brought on by Mr. Alford without a shred of evidence of the allegations to this date. I have had to overcome Mr. Alford's undeniable violation of courts, lying in court, manipulation and violation of the court rules. To the fault of Mr. Alford, I have lost incalculable assets, cash, career, and life for no reason.

I am therefore requesting that The Office of General Counsel investigate the foregoing claims against Attorney Swayze Alford and take whatever action it deems appropriate.

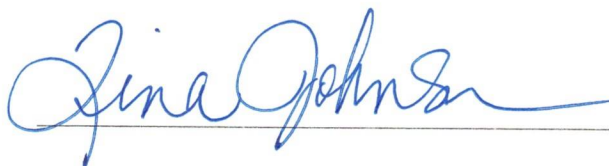
Respectfully submitted,



Robert Sullivan Jr.

Sworn to and subscribed before me this the ^{29th} ~~10th~~ day of ^{March} ~~January~~ 2023.

My Commission Expires



Notary Public