



The North Carolina State Bar
Office of Counsel

208 Fayetteville St. (27601)
Post Office Box 25908
Raleigh, North Carolina 27611
Telephone (919) 828-4620
Fax: (919) 834-8156
Web: www.ncbar.gov

January 17, 2013

To: Mark W. Merritt,
Ethics Committee Chairman

From: Timothy D. Batchelor, Field Auditor

Subject: 2012 Fourth Quarter Audit Report

Random Audit of Judicial Districts 2 and 6B

1. Judicial District 2 consisting of Beaufort, Hyde, Martin, Tyrrell and Washington counties and Judicial District 6B consisting of Bertie, Hertford and Northampton counties were randomly selected for review.
2. District 2 was previously audited in 1991, 1995, 1998, 2003 and 2009. District 2 has a listing of 73 lawyers. District proration exposed 38 lawyers within the district to audit. 18 lawyers were exempt from random audit because they were no longer practicing, were not required to maintain a trust account or received an audit certification. 4 lawyers were found to currently practice in other Judicial Districts. Closure of highway 12 and a lawyer's medical issues resulted in the inability to conduct 2 scheduled audits. 28 reviews were conducted collectively representing 36 lawyers.
3. District 6B was previously audited in 1991, 1995, 1999, 2002 and 2011. District 6B has a listing of 43 lawyers. District proration exposed 22 lawyers within the district to audit. The three year exemption from repeated audit selection made 17 lawyers ineligible for random audit because they had been

audited in 2011. 20 lawyers were no longer practicing, retired or did not require trust accounts. 4 reviews were conducted collectively representing 13 lawyers.

4. Lawyers failing to balance bank statement monthly. (16%)
Lawyers failing to reconcile the trust account quarterly. (50%)
5. Common deficiencies:
 - (a) 31% Failed to provide written accountings to clients at least annually if funds were held more than twelve (12) months.
 - (b) 31% Failed to escheat unidentified/abandoned funds as required by GS 116B-53.
 - (c) 25% Failed to identify the client on wire/electronic transfers of funds into or out of the trust account.
 - (d) 22% Failed to identify the client on the original deposit slip to bank if source of funds was not the client.
 - (e) 22% Failed to use business size checks that contain Auxiliary On-Us field.
 - (f) 16% Advanced funds from the trust account resulting in a negative balance.
 - (g) 16% Checks did not indicate from which client balance the funds were drawn.
 - (h) 16% Failed to maintain a ledger of lawyer's funds in the trust account used to service account.
 - (i) 16% Failed to promptly remit to clients funds in possession of lawyer belonging to clients, to which the client was entitled.
 - (j) 13% Check images were illegible or did not have back image.
 - (k) 13% Failed to maintain a ledger for each person of entity from whom or for whom trust money received.
 - (l) 9% Failed to provide a copy of the amended directive to the bank.
 - (m) 9% Commingled attorney and client funds by failing to remove earned fees or cost reimbursement promptly.

6. A total of 207 lawyers trust accounts, encompassing 364 lawyers were audited in 2012.

7. Judicial Districts randomly selected for audit for the first quarter of 2013 are District 17A (Rockingham County) and District 21 (Forsyth County).

cc: Alice Neece Mine
Katherine E. Jean
Joe Commisso
Peter G. Bolac

Katherine E. Jean, Counsel
A. Root Edmonson, Fern Gunn Simeon, David R. Johnson, Jennifer A. Porter, Margaret T. Cloutier,
Nichole P. McLaughlin, Carmen Hoyme Bannon, Brian P.D. Oten, Leonor Bailey Hodge,
Barry S. McNeill, Mary D. Winstead, G. Patrick Murphy, Alyssa M. Chen - Deputy Counsel
Peter G. Bolac – Trust Account Compliance Counsel