

STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
13 DHC 15

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

PHILLIP HUNTER GILFUS, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Phillip Hunter Gilfus, ("Gilfus" or "Defendant"), was admitted to the North Carolina State Bar on August 28, 2009, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Gilfus was engaged in the practice of law in Cumberland County, North Carolina.

4. In early 2009, Gilfus was appointed treasurer, a fiduciary position, of Cumberland County Democratic Men's Club ("CCDMC"), an organization in Cumberland County, North Carolina.

5. CCDMC maintained a bank account at Capital Bank, last four numbers 3397 ("Capital Bank account 3397").

6. As treasurer of CCDMC, Gilfus was entrusted with the money in CCDMC's Capital Bank account 3397.

7. Between November 2011 and July 2012, Gilfus wrote the following checks on Capital Bank account 3397 payable to himself:

	DATE	CHECK NUMBER	AMOUNT
1.	11/15/11	3033	\$182.00
2.	1/5/12	3036	\$600.00
3.	1/21/12	3038	\$100.00
4.	1/26/12	3040	\$100.00
5.	4/10/12	3046	\$200.00
6.	6/1/12	3050	\$100.00
7.	6/3/12	3051	\$700.00
8.	7/3/12	3052	\$50.00
9.	7/6/12	3053	\$100.00
10.	7/19/12	3054	\$150.00 (NSF)

8. CCDMC had not authorized the above listed payments to Gilfus and Gilfus was not otherwise entitled to the above listed funds.

9. With the first nine checks listed in paragraph 7, Gilfus obtained CCDMC money in the amount of \$2,132.00 and converted it to his personal use and benefit.

10. In his capacity as treasurer of CCDMC, Gilfus knowingly and willfully misapplied, and converted to his own use, \$2,132.00 belonging to CCDMC.

11. In each instance, Gilfus' conduct related to checks 1-9 of paragraph 7 was unlawful criminal conduct in violation of N.C. Gen. Stat. §14-90.

12. Gilfus attempted to deposit check number 3054 to his personal bank account with USAA Federal Savings Bank but the check was returned for nonsufficient funds.

13. In his capacity as treasurer of CCDMC, by writing check number 3054 and delivering it to his bank for deposit to his personal account, Gilfus attempted to knowingly and willfully misapply, and convert to his own use, \$150.00 belonging to CCDMC.

14. Gilfus' conduct related to check 3054 was unlawful criminal conduct in violation of N.C. Gen. Stat. §§14-2.5 and 14-90.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- a) By writing checks to himself on CCDMC's bank account while serving as treasurer of CCDMC and converting the money from those checks to his personal use and benefit, Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b);

- b) By writing checks to himself on CCDMC's bank account while serving as treasurer of CCDMC and converting the money from those checks to his personal use and benefit, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- c) By writing check 3054 on CCDMC's bank account to himself while serving as treasurer of CCDMC and attempting to convert the money from that check to his personal use and benefit, Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b); and
- d) By writing check 3054 on CCDMC's bank account to himself while serving as treasurer of CCDMC and attempting to convert the money from that check to his personal use and benefit, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

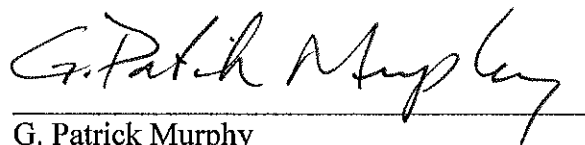
WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

The 25th day of April, 2013.



Margaret M. Hunt, Chair
Grievance Committee



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