



STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 27

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

HOLLY C. STEVENS, PAULINE E.
MAKIA, CARMEN J. BATTLE, and
JAMIE FAYE NEWSOM, Attorneys,

Defendants

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF DISCIPLINE
FOR
HOLLY C. STEVENS

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of the Chair, Sharon B. Alexander, and members Harriett Smalls and Joe Castro. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant Holly C. Stevens (hereinafter Defendant Stevens or Stevens) was not represented, did not make an appearance in this matter, and did not file any written submissions in response to Plaintiff's Motion for Findings of Fact, Conclusions of Law, and Order of Discipline.

This order pertains only to the claims concerning Defendant Holly C. Stevens and resolves only those claims. The term "parties" in this order refers to the State Bar as Plaintiff and Holly C. Stevens as Defendant.

On Plaintiff's motion, default was entered against Defendant Stevens. Based upon the pleadings and admissions pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(f) and Rule 8(d) of the Rules of Civil Procedure, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

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 Stevens was admitted to the North Carolina State Bar in 1998,

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.

3. Stevens was properly served with process, a hearing in this matter was set, and the matter came before the Hearing Panel with due notice to all parties.

4. During all or part of the relevant periods referred to herein, Stevens was engaged in the practice of law in the State of North Carolina and maintained a law office in Fayetteville, Cumberland County, North Carolina.

5. Beginning in about the year 1999, Stevens established a law office in Fayetteville, North Carolina. Beginning in about 1999 or 2000, Stevens began closing real estate transactions that involved Maurice Jenkins ("Jenkins"). Jenkins purported to be a real estate investor and someone who marketed properties to others for rental property investments.

6. From about 2000 through 2007, Jenkins engaged in fraudulent practices in his real estate transactions, including the following:

- a. same day "flips" where property was transferred from an owner to Jenkins, or an entity associated with him, and immediately transferred to the ultimate buyer, with the funds loaned to the ultimate buyer being used to fund the transfer from the initial owner to Jenkins;
- b. purchases disguised as refinances, where buyers obtained what purported to be refinance loans, the proceeds of which were used, however, for the buyers to purchase the properties at issue;
- c. arranging for money from closings that should have been disbursed to pay off prior deeds of trust on properties or for other purposes to instead be disbursed for Jenkins' benefit; and
- d. borrowers not paying the amounts listed on the HUD-1 Settlement Statements as due from the borrower at closing, with such amounts instead being deducted from sales proceeds otherwise due to the seller, contrary to the intent of the lenders.

7. Jenkins was convicted of one count of bank fraud, in violation of 18 U.S.C. § 1344, on November 3, 2009.

8. Stevens closed real estate transactions involving Jenkins and these fraudulent practices between 2000 and 2006, including the transactions listed in Exhibit A to the Complaint filed in this matter. The transactions listed in Exhibit A provide examples of the conduct described herein and are not an exclusive list of transactions in which this conduct occurred.

9. In these transactions, Stevens assisted Jenkins in his fraud, including as follows:

- a. creating HUD-1 Settlement Statements that contained false information and/or that failed to accurately portray the true nature of the transaction;
- b. conveying false information about the transactions to the lenders;
- c. manipulating the timing of submission of preliminary opinions of title to hide flips;
- d. placing false owner information on preliminary opinions of title;
- e. failing to collect funds due from borrowers as identified on the HUD-1 Settlement Statements; and
- f. disbursing funds contrary to the information on the HUD-1 Settlement Statements for Jenkins' benefit.

10. Stevens' non-attorney staff assisted Stevens in the execution of the above listed conduct.

11. Stevens also participated with Jenkins in the purchase and sale of properties by and through The Eddie Peyton Group, LLC, an entity in which Stevens had an ownership interest, including transactions involving the above identified fraudulent practices.

12. In addition to assisting Jenkins' commission of criminal conduct, Stevens knowingly provided false information to lenders insured by the Federal Deposit Insurance Corporation (FDIC) for the purpose of influencing the lenders' actions and thereby engaged in criminal conduct in violation of 18 U.S.C. § 1014.

Based upon the foregoing Findings of Fact, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over the Defendant, Holly C. Stevens, and the subject matter.

2. Defendant Stevens' conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2), for engaging in conduct in violation of the Rules of Professional Conduct in effect at the time of her actions as follows:

- a) By knowingly failing to collect funds due from borrowers, failing to pay off prior deeds of trust, preparing HUD-1 Settlement Statements

containing inaccurate information and/or that failed to accurately portray the true nature of the transactions, providing inaccurate information to the lenders about the transactions, and disbursing funds contrary to the HUD-1 Settlement Statements in order to benefit Jenkins and/or herself, Stevens engaged in, and assisted Jenkins in engaging in, criminal conduct involving dishonesty, fraud, misrepresentation, and deceit in violation of Rule 8.4(a), (b), and (c); and

- b) By failing to receive and disburse funds as represented on the HUD-1 Settlement Statements, Stevens failed to appropriately maintain and disburse entrusted funds in violation of Rule 1.15-2(a) and (m).

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Banks are not normally thought of as vulnerable entities. Nevertheless, banks rely upon the closing attorney to carry out the closing in an ethical, lawful, and proper manner. These institutions are particularly vulnerable to the conduct of attorneys that circumvent or facilitate others in the circumvention of safeguards employed to avoid fraud.

2. Stevens' obligation as closing attorney was to produce an accurate HUD-1 Settlement Statement for each transaction, to ensure that funds were received and disbursed as authorized by the lender and to follow the lender's closing instructions.

3. Accurate HUD-1 Settlement Statements are necessary for the system of finance in real estate to function. Lenders rely upon the HUD-1 Settlement Statements to accurately reflect the receipt and disbursement of funds in real estate closings. Stevens' preparation and submission of HUD-1 Settlement Statements that she knew did not accurately show the receipt and disbursement of funds and Stevens' failure to receive and disburse funds as reflected on the HUD-1 Settlement Statements evaded the safeguards relied upon by the lenders.

4. Stevens not only participated in the Jenkins' fraudulent schemes as closing attorney, but also as buyer and seller.

5. Stevens knowingly provided false information to lenders insured by the Federal Deposit Insurance Corporation (FDIC) for the purpose of influencing the lenders' actions and thereby engaged in criminal conduct in violation of 18 U.S.C. § 1014. Violation of 18 U.S.C. § 1014 is a felony offense.

6. Stevens engaged in conduct involving misrepresentation and deceit over a substantial period of time.

7. Clients are entitled to attorneys they can trust. Stevens, by engaging in conduct involving misrepresentation and deceit over a substantial period of time, has shown herself to be untrustworthy. When an attorney violates that trust, it harms the public and the profession.

8. Stevens has no prior disciplinary record concerning her license to practice law.

Based upon the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, the Hearing Panel hereby enters the following additional

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension or disbarment of Defendant's license:

- a) Intent of Defendant to cause the resulting harm or potential harm;
- b) Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- c) Circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- d) Defendant's actions potentially had a negative impact on the public's perception of the legal profession;
- e) Defendant's actions impaired her clients' ability to achieve the goals of the representation; and
- f) Acts of dishonesty, misrepresentation, deceit, or fabrication.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant disbarment.

- a) Acts of dishonesty, misrepresentation, deceit, or fabrication; and
- b) Commission of a felony.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- a) Defendant's lack of prior disciplinary offenses;

- b) Defendant's dishonest or selfish motive;
- c) Defendant engaged in multiple offenses;
- d) Defendant engaged in a pattern of misconduct;
- e) Defendant's refusal to acknowledge wrongful nature of the conduct;
- f) The vulnerability of Defendant's clients; and
- g) Degree of experience in the practice of law.

4. Stevens' conduct, involving misrepresentation and deceit over a substantial period of time, resulted in significant harm to her clients and the profession and posed potential significant harm to the public that may have sought to retain her or those who may have dealt with her in other capacities. When an attorney violates the trust clients and others should be able to have in attorneys, it harms the public and the profession.

5. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

6. The Hearing Panel has considered all lesser forms of sanctions available to it and finds that disbarment is the only appropriate discipline in this case, for the following reasons:

- a) Stevens committed misdeeds involving moral turpitude and violations of the public trust, including fraudulent conduct, material misrepresentations, and deceit. Misconduct involving misrepresentations and deceit are among the most serious that an attorney can commit. Such offenses demonstrate that the offending attorney is not trustworthy. Clients are entitled to have trustworthy attorneys;
- b) The factors under Rule .0114(w) that are established by the evidence in this case are of a nature that support imposition of disbarment as the appropriate discipline;
- c) Entry of an order imposing lesser discipline than disbarment would fail to acknowledge the seriousness of the offenses committed by Stevens, would be inconsistent with discipline issued in prior cases involving similar misconduct, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the North Carolina State Bar; and
- d) The protection of the public and the legal profession requires that Stevens not be permitted to resume the practice of law until she demonstrates the

following: that she has reformed; that she understands her obligations to her clients, the public, and the legal profession; and that permitting her to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice. Disbarment is the only discipline available that requires an attorney to make such a showing before he or she may be reinstated.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings of Fact Regarding Discipline, and Conclusions Regarding Discipline, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Holly C. Stevens, is hereby DISBARRED from the practice of law in North Carolina.

2. Defendant shall submit her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying she has complied with the wind down rule.

4. The costs of this action are taxed to Defendant. Defendant must pay the costs within 30 days of service of the statement of costs upon her.

Signed by the Chair with the consent of the other Hearing Panel members, this the 04 day of March 2011.



Sharon B. Alexander, Chair
Disciplinary Hearing Panel