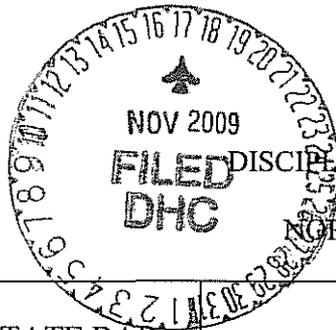


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 17

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

J. SCOTT TAGGART, Attorney,

Defendant

CORRECTED
ORDER
OF DISCIPLINE

This matter is before a hearing committee of the Disciplinary Hearing Commission composed of J. Michael Booe, Chair, and members Steven D. Michael and David L. Williams. Carmen K. Hoyme represented Plaintiff, the North Carolina State Bar. Defendant, J. Scott Taggart, has not participated in this matter and no counsel of record has filed any pleadings on his behalf.

On Plaintiff's motion, judgment by default was entered against Defendant. An Order of Discipline was filed on 9 November 2009. This Corrected Order of Discipline is filed to correct paragraph number references in the 9 November 2009 Order of Discipline. In all other respects, this Corrected Order is the same as the original Order.

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 Committee 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, J. Scott Taggart (hereafter "Defendant" or "Taggart"), was admitted to the North Carolina State Bar in 1996 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. Defendant was properly served with process in this action.

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

5. In 2002, Taggart prepared a will for Pamela Ann Oriente which named Taggart as executor and directed that her entire estate be given to various charities.

6. Upon Oriente's death in 2004, Taggart filed her will in Pitt County Superior Court. In October 2004, the Clerk of Superior Court issued Letters Testamentary appointing Taggart executor of Oriente's estate.

7. In March 2005, Taggart filed the Inventory for Oriente's estate. The only estate property identified in the Inventory was approximately \$171,000 in two bank accounts.

8. In January and again in February 2006, the Clerk issued a Notice to File to Taggart, directing him to file the Final Accounting for Oriente's estate. The Clerk also attempted to contact Taggart by phone.

9. Taggart did not file any accountings showing receipts and disbursements on behalf of the estate. After Taggart filed the Inventory, he did not respond to subsequent communications from the Clerk about Oriente's estate.

10. Because there were no further filings and Taggart had failed to respond to communications from the Clerk, in March 2008 the Clerk entered an order categorizing Oriente's estate as a closed file. However, The Bank of America account in the name of The Estate of Pamela Ann Oriente ("the Oriente Estate account") remained under Taggart's control as executor.

11. In May 2008, Taggart disbursed \$5,000.00 from the Oriente Estate account to Greenville Community Shelter, one of the charities named in Oriente's will. Taggart did not disburse any of the remaining assets of the estate to any of the other beneficiaries named in Oriente's will.

12. Over a three day period in May 2008, Taggart disbursed all of the remaining funds in the Oriente Estate account to himself, his law firm, and one of his companies. These disbursements totaled approximately \$162,000.00.

13. Taggart was not authorized to disburse the balance of the Oriente Estate account to himself, his law firm, or his company.

14. In April 2003, EZN Homes, Inc. ("EZN") entered into a contract with Chase Manhattan Mortgage Corp. ("Chase Manhattan") to purchase the property located at 19203 Coachman's Trace, Cornelius, North Carolina ("19203 Coachman's Trace"). The purchase price was \$150,000.00.

15. At the request of David Johnson, a principal of EZN, Taggart obtained a title insurance commitment for EZN's purchase of 19203 Coachman's Trace.

16. Taggart's 16 April 2003 preliminary opinion of title, which was provided to Investors Title Insurance Company ("Investors Title") in order to obtain the title insurance commitment, stated that EZN was the buyer, the purchase price was \$150,000.00, and the loan amount was \$176,000.00.

17. On 30 April 2003, Taggart sent an "Endorsement Request" to Investors Title, requesting that the insurance policy be changed to reflect that the buyer was an individual named John Walker, the purchase price was \$240,000.00, and the loan amount was \$228,000.00.

18. Taggart acted as the closing attorney for the 6 May 2003 transaction in which John Walker purchased 19203 Coachman's Trace from Chase Manhattan. As closing attorney, Taggart represented the buyer and the lender in the transaction.

19. In connection with John Walker's purchase of 19203 Coachman's Trace, Taggart prepared two different HUD-1 Settlement Statements ("HUD-1s"): One was provided to the seller, Chase Manhattan, and the other was provided to the lender, Countrywide Home Loans ("Countrywide").

20. The HUD-1 prepared by Taggart and provided to Chase Manhattan, the seller, showed the actual purchase price of \$150,000.00. It stated that John Walker was borrowing \$138,000.00 and bringing \$16,878.38 in cash to closing. It also stated that the seller would receive \$137,461.89 in proceeds.

21. The HUD-1 prepared by Taggart and provided to Countrywide, the mortgage lender for John Walker's purchase of 19203 Coachman's Trace, showed a purchase price of \$240,000.00. It stated that John Walker was borrowing \$228,000.00 and bringing \$16,878.38 in cash to closing. It also stated that the seller would receive \$221,881.89 in proceeds.

22. The HUD-1 prepared by Taggart and provided to Countrywide contained false information about the purchase price and amount of proceeds disbursed to the seller, as the actual purchase price was \$150,000.00 and the actual disbursement to Chase Manhattan was \$137,461.89.

23. Taggart knew, at the time he prepared the HUD-1 provided to Countrywide in connection with John Walker's purchase of 19203 Coachman's Trace, that the HUD-1 contained false information about the purchase price and amount of proceeds disbursed to the seller.

24. Both of the HUD-1s prepared by Taggart in connection with John Walker's purchase of 19203 Coachman's Trace contained false information about the amount of cash brought to closing by John Walker, as John Walker did not bring any cash to closing.

25. Taggart knew, at the time he prepared the HUD-1s for John Walker's purchase of 19203 Coachman's Trace, that the HUD-1s contained false information about the amount of cash brought to closing by John Walker.

26. In addition to paying the actual closing costs, Taggart made the following disbursements from the loan proceeds provided by Countrywide to fund John Walker's purchase of 19203 Coachman's Trace:

- a. \$1,350.00 to First Citizens Bank
- b. \$10,000.00 to First Citizens Bank
- c. \$3,135.00 to Mark Bowe
- d. \$3,695.00 to Spencer Jenkins
- e. \$4,000.00 to Mike Ollison
- f. \$10,000.00 to Amanda McKenzie
- g. \$23,941.62 to Cooper McKenzie
- h. \$17,000.00 to John Walker, the buyer.

27. None of the disbursements itemized in paragraph 26 above appeared on either of the HUD-1s prepared by Taggart in connection with John Walker's purchase of 19203 Coachman's Trace, and these disbursements were not authorized by Countrywide.

28. Taggart knew, at the time he prepared the HUD-1s for John Walker's purchase of 19203 Coachman's Trace, that the HUD-1s contained false information about the disbursements he made in connection with the transaction.

29. Taggart and John Walker both signed the HUD-1 prepared by Taggart and provided to Countrywide, the lender. They also both signed the second HUD-1 prepared by Taggart and provided to Chase Manhattan, the seller.

30. In May 2003, Kenneth Walker entered into a contract with Bank One, NA ("Bank One") to purchase the property located at 19056 Coachman's Trace, Cornelius, North Carolina ("19056 Coachman's Trace"). The purchase price was \$160,000.00

31. Taggart acted as the closing attorney for the 19 June 2003 transaction in which Kenneth Walker purchased 19056 Coachman's Trace from Bank One.

32. In connection with Kenneth Walker's purchase of 19056 Coachman's Trace, Taggart prepared two different HUD-1s: One was provided to the seller, Bank One, and the other was provided to the lender, Countrywide Home Loans ("Countrywide").

33. The HUD-1 prepared by Taggart and provided to Bank One, the seller, showed the actual purchase price of \$160,000.00. It stated that Kenneth Walker was borrowing \$146,750.00 and bringing \$21,230.67 in cash to closing. It also stated that the seller would receive \$148,696.36 in proceeds.

34. The HUD-1 prepared by Taggart and provided to Countrywide, the mortgage lender for Kenneth Walker's purchase of 19056 Coachman's Trace, showed a purchase price of \$265,000.00. It stated that Kenneth Walker was borrowing \$251,750.00 and bringing \$21,230.67 in cash to closing. It also stated that the seller would receive \$248,623.86 in proceeds.

35. The HUD-1 prepared by Taggart and provided to Countrywide contained false information about the purchase price and amount of proceeds disbursed to the seller, as the actual purchase price was \$160,000.00 and the actual disbursement to Bank One was \$148,696.36.

36. Taggart knew, at the time he prepared the HUD-1 provided to Countrywide in connection with Kenneth Walker's purchase of 19056 Coachman's Trace, that the HUD-1 contained false information about the purchase price and amount of proceeds disbursed to the seller.

37. Both of the HUD-1s prepared by Taggart in connection with Kenneth Walker's purchase of 19056 Coachman's Trace contained false information about the amount of cash brought to closing by Kenneth Walker, as Kenneth Walker did not bring any cash to closing.

38. Taggart knew, at the time he prepared the HUD-1s for Kenneth Walker's purchase of 19056 Coachman's Trace, that the HUD-1s contained false information about the amount of cash brought to closing by Kenneth Walker.

39. In addition to paying the actual closing costs, Taggart made the following disbursements from the loan proceeds provided by Countrywide to fund Kenneth Walker's purchase of 19056 Coachman's Trace:

- a. \$1,350.00 to First Citizens Bank
- b. \$500.00 to BB&T
- c. \$500.00 to Jessica Berry
- d. \$3,135.00 to Mark Bowe
- e. \$5,000.00 to Spencer Jenkins
- f. \$2,500.00 to Mike Ollison
- g. \$10,000.00 to Amanda McKenzie
- h. \$4,829.33 to Cooper McKenzie
- i. \$9,000.00 to Cooper McKenzie
- j. \$9,900.00 to Cooper McKenzie
- k. \$1,100.00 to John Walker
- l. \$9,000.00 to John Walker
- m. \$5,000.00 to the buyer, Kenneth Walker
- n. \$9,000.00 to the buyer, Kenneth Walker
- o. \$9,000.00 to the buyer, Kenneth Walker
- p. \$4,000.00 to Douglas Bennett
- q. \$4,000.00 to Darryl Hightower

40. None of the disbursements itemized in paragraph 39 above appeared on either of the HUD-1s prepared by Taggart in connection with Kenneth Walker's purchase of 19056 Coachman's Trace, and these disbursements were not authorized by Countrywide.

41. Taggart knew, at the time he prepared the HUD-1s for Kenneth Walker's

purchase of 19056 Coachman's Trace, that the HUD-1s contained false information about the disbursements he made in connection with the transaction.

42. Taggart and Kenneth Walker both signed the HUD-1 prepared by Taggart and provided to Countrywide, the lender. They also both signed the second HUD-1 prepared by Taggart and provided to Bank One, the seller.

43. In early 2005, counsel for John and Kenneth Walker (collectively "the Walkers") contacted Taggart about the 2003 real estate transactions in which the Walkers had acquired 19203 and 19056 Coachman's Trace (collectively, "the Coachman's Trace transactions").

44. Counsel for the Walkers alleged that Taggart, as closing attorney for the Coachman's Trace transactions, had acted improperly in connection with the transactions and was civilly liable to the Walkers.

45. The Walkers' attorney told Taggart that the Walkers sought \$393,215.77 from Taggart, Taggart's law firm, and several other employees of the firm, as compensation for damages they suffered in connection with the Coachman's Trace transactions.

46. After a period of negotiation, Taggart and several other individuals from whom the Walkers sought compensation in connection with the Coachman's Trace transactions (collectively "the defendants") entered into a settlement agreement with the Walkers. The 1 July 2005 settlement agreement provided, in pertinent part, that:

- a. The defendants would pay \$220,000.00 to the Walkers, through their attorney, in eleven monthly installments of \$20,000.00;
- b. The defendants would execute purchase contracts for the Coachman's Trace properties, in which they agreed to purchase the properties for a total of \$400,000.00, with closing to occur on or before 1 June 2006; and
- c. In exchange, the Walkers would release the defendants from "any and all civil actions, causes of action, claims, and demands of any kind . . . arising out of events connected to the [Coachman's Trace transactions]."

47. On 30 September 2005, Taggart wired \$40,000.00 from his law firm trust account to the Walkers' attorney.

48. As of 30 September 2005, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

49. The \$40,000.00 Taggart disbursed from the firm trust account on 30 September 2005 belonged to other clients of the firm.

50. On 30 November 2005, Taggart wired \$40,000.00 from his law firm trust account to the Walkers' attorney.

51. As of 30 November 2005, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

52. The \$40,000.00 Taggart disbursed from the firm trust account on 30 November 2005 belonged to other clients of the firm.

53. On 9 January 2006, Taggart wired \$20,000.00 from his law firm trust account to the Walkers' attorney.

54. As of 9 January 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

55. The \$20,000.00 Taggart disbursed from the firm trust account on 9 January 2006 belonged to other clients of the firm.

56. On 6 February 2006, Taggart wired \$20,000.00 from his law firm trust account to the Walkers' attorney.

57. As of 6 February 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

58. The \$20,000.00 Taggart disbursed from the firm trust account on 6 February 2006 belonged to other clients of the firm.

59. On 6 March 2006, Taggart wired \$20,000.00 from his law firm trust account to the Walkers' attorney.

60. As of 6 March 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

61. The \$20,000.00 Taggart disbursed from the firm trust account on 6 March 2006 belonged to other clients of the firm.

62. On 5 April 2006, Taggart wired \$20,000.00 from his law firm trust account to the Walkers' attorney.

63. As of 5 April 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

64. The \$20,000.00 Taggart disbursed from the firm trust account on 5 April 2006 belonged to other clients of the firm.

65. On 8 May 2006, Taggart wired \$20,000.00 from his law firm trust account to the Walkers' attorney.

66. As of 8 May 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of making payments pursuant to the settlement agreement with the Walkers.

67. The \$20,000.00 Taggart disbursed from the firm trust account on 8 May 2006 belonged to other clients of the firm.

68. On 5 July 2006, Taggart wired \$3,146.00 from his law firm trust account to the Walkers' attorney for penalties and interest demanded by the Walkers because the defendants had not purchased the Coachman's Trace properties by 1 June 2006, as required by the terms of the settlement agreement.

69. As of 5 July 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of paying penalties and interest to the Walkers.

70. The \$3,146.00 Taggart disbursed from the firm trust account on 5 July 2006 belonged to other clients of the firm.

71. On 11 July 2006, Taggart wired \$2,650.00 from his law firm trust account to the Walkers' attorney for additional penalties and interest.

72. As of 11 July 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of paying penalties and interest to the Walkers.

73. The \$2,650.00 Taggart disbursed from the firm trust account on 11 July 2006 belonged to other clients of the firm.

74. On 31 July 2006, Taggart wired \$1,619.60 from his law firm trust account to the Walkers' attorney for additional penalties and interest.

75. As of 31 July 2006, there were no funds in Taggart's law firm trust account held on behalf of the defendants for the purpose of paying penalties and interest to the Walkers.

76. The \$1,619.60 Taggart disbursed from the firm trust account on 31 July 2006 belonged to other clients of the firm.

77. In October 2006, Taggart entered into an "Extension of Settlement Agreement" with the Walkers, which provided in pertinent part:

- a. “[I]n an effort to avoid litigation initiated by the Walkers . . . Taggart has agreed to fulfill in part the obligations of the Settlement Agreement undertaken by the Executing Parties, specifically those obligations pertaining to the purchase of the [Coachman’s Trace] Properties.”
- b. In exchange for the Walkers’ agreement to delay the date of closing on the Coachman’s Trace properties, Taggart agreed to provide their attorney with \$60,000.00 by 16 October 2006, which was to be held in trust for the Walkers. If closing occurred prior to 16 November 2006, that amount would be credited toward the total purchase price of the properties, which was increased to \$411,000.00. If closing did not occur by that date, 80% of the \$60,000.00 payment would go to the Walkers as “liquidated damages.”

78. On 16 October 2006, Taggart wired \$60,000.00 from his law firm trust account to the Walkers’ attorney to satisfy the terms of the Extension of Settlement Agreement.

79. As of 16 October 2006, there were no funds in Taggart’s law firm trust account held on behalf of Taggart for the purpose of making payment to the Walkers pursuant to the Extension of Settlement Agreement.

80. The \$60,000.00 Taggart disbursed from the firm trust account on 16 October 2006 belonged to other clients of the firm.

81. The beneficial owners of the entrusted funds in Taggart’s firm’s trust account during the period from September 2005 through October 2006 did not authorize Taggart to use their funds for the purpose of making payments to the Walkers.

82. Taggart knew, at the time he made the disbursements from his law firm trust account to the Walkers described above, that the funds he was using to make the payments were held in trust for the benefit of the firm’s clients.

83. From September 2005 through October 2006, Taggart disbursed a total of \$247,415.60 from his law firm trust account to the Walkers.

84. To offset this defalcation, Taggart deposited \$120,000.00 of his personal funds into the trust account. Taggart replenished the remaining \$127,415.60 deficit in the firm trust account with funds from the Oriente Estate account, discussed above.

85. On 4 November 2005, EZN Homes, Inc. (“EZN”)—acting through its corporate agent, David Johnson—purchased property located at 800 Belvin Avenue, Durham, North Carolina (“the Belvin Ave property”).

86. Taggart acted as the closing attorney for the 4 November 2005 transaction in which EZN purchased the Belvin Ave property from LaSalle Bank National. The purchase price was \$63,000.00.

87. There was no mortgage loan associated with EZN's purchase of the Belvin Ave property, and EZN did not bring any cash to closing.

88. No funds were deposited into Taggart's law firm trust account on behalf of EZN for its purchase of the Belvin Ave property.

89. In connection with EZN's purchase of the Belvin Ave property, Taggart disbursed a total of \$63,721.54—\$7,182.77 in closing costs plus \$56,538.77 of seller's proceeds—from his law firm trust account.

90. The \$63,721.54 Taggart disbursed from the firm trust account to fund EZN's purchase of the Belvin Ave property belonged to other clients of the firm.

91. The beneficial owners of the entrusted funds in the firm's trust account did not authorize Taggart to use their funds for EZN's purchase of the Belvin Ave property.

92. Taggart knew, at the time he disbursed \$63,721.54 from his law firm trust account to fund EZN's purchase of the Belvin Ave. property, that those funds were held in trust for the benefit of other clients.

93. On 5 February 2007, Michael R. Miranda purchased property located at 3017 Lattyes Lane, Raleigh, North Carolina ("the Lattyes Lane property") from Donna Clayton.

94. Taggart acted as the closing attorney for the 5 February 2007 transaction in which Miranda purchased the Lattyes Lane property from Clayton. As closing attorney, Taggart represented the buyer and the lender in the transaction.

95. As closing attorney for Miranda's purchase of the Lattyes Lane property, Taggart prepared a HUD-1 Settlement Statement ("HUD-1") for the transaction.

96. The HUD-1 prepared by Taggart for Miranda's purchase of the Lattyes Lane property stated that Miranda brought \$1,742.44 in cash to the closing.

97. Miranda did not bring any cash to closing for his purchase of the Lattyes Lane property.

98. Taggart knew, at the time he prepared the HUD-1 for Miranda's purchase of the Lattyes Lane property, that the HUD-1 contained false information about the amount of cash brought to closing by Miranda.

99. The HUD-1 prepared by Taggart in connection with Miranda's purchase of the Lattyes Lane property stated that Taggart disbursed \$545,400.75 to pay off the seller's first mortgage. This statement was false, as Taggart actually disbursed only \$543,216.39 to pay off the first mortgage. The remaining \$2,184.36 was paid by check to Lanier & Taggart, PLLC. The lender did not authorize this disbursement to Lanier & Taggart, PLLC.

100. The HUD-1 prepared by Taggart in connection with Miranda's purchase of the Lattyes Lane property stated that Taggart disbursed \$303,133.55 to pay off the seller's second mortgage. This statement was false, as Taggart actually disbursed only \$298,944.91 to pay off the second mortgage. The remaining \$4,188.64 was paid by check to Lanier & Taggart, PLLC. The lender did not authorize this disbursement to Lanier & Taggart, PLLC.

101. The HUD-1 prepared by Taggart in connection with Miranda's purchase of the Lattyes Lane property stated that Taggart disbursed \$110,698.77 to Clayton, the seller. This statement was false, as Taggart did not disburse any money to Clayton in connection with Miranda's purchase of the Lattyes Lane property. Taggart disbursed \$100,698.77 to EZN Homes, Inc. ("EZN"). The remaining \$10,000.00 was paid by check to Lanier & Taggart, PLLC. Clayton did not authorize this disbursement to Lanier & Taggart, PLLC.

102. The HUD-1 prepared by Taggart in connection with Miranda's purchase of the Lattyes Lane property did not reflect any disbursement to EZN, nor did it reflect disbursement of a total of \$16,373.00 to Lanier & Taggart, PLLC.

103. Taggart knew, at the time he prepared the HUD-1 for Miranda's purchase of the Lattyes Lane property, that the HUD-1 contained false information about the disbursements he made in connection with the transaction.

104. Taggart provided the HUD-1 containing false information to the mortgage lender for Miranda's purchase of the Lattyes Lane property.

105. In connection with Miranda's purchase of the Lattyes Lane property, Taggart prepared two deeds of trust in favor of the mortgage lender for the first and second mortgages.

106. Both deeds of trust prepared by Taggart in connection with Miranda's purchase of the Lattyes Lane property identified Miranda's wife, Lourdes Miranda, as one of the grantors.

107. Taggart notarized what purported to be Lourdes Miranda's signatures on these two deeds of trust identifying Lourdes Miranda as a grantor.

108. Lourdes Miranda did not sign the deeds of trust for Miranda's purchase of the Lattyes Lane property, did not appear before Taggart on 5 February 2007, and did not affirm to Taggart that the signatures on the deeds of trust were her own.

109. The signatures purporting to be those of Lourdes Miranda on the two deeds of trust related to Miranda's purchase of the Lattyes Lane property were forgeries, signed by Miranda.

110. Taggart knew, at the time he notarized what purported to be Lourdes Miranda's signatures on these two deeds of trust, that the signatures were forged by Miranda.

111. Taggart filed these two deeds of trust identifying Lourdes Miranda as a grantor and bearing forged signatures with the Wake County Register of Deeds.

112. On 28 February 2007, Michael R. Miranda purchased three properties in Durham, North Carolina. The addresses of the properties purchased by Miranda on 28 February 2007 were:

- a. 1511 Ridgeway Avenue
- b. 118 Chestnut Street
- c. 2811 Owen Street

113. Taggart and James K. Crowell III were the sellers of 1511 Ridgeway Ave and 118 Chestnut Street. EZN Homes, Inc. (“EZN”) was the seller of 2811 Owen Street.

114. Taggart prepared the HUD-1 Settlement Statements (“HUD-1s”) and oversaw the receipts and disbursements for all three of the 28 February 2007 transactions identified in paragraph 112 (collectively, “Miranda’s Durham purchases”).

115. At Taggart’s request, another lawyer in Taggart’s firm signed as the settlement agent on the HUD-1s prepared by Taggart in connection with Miranda’s Durham purchases.

116. The HUD-1 prepared by Taggart for Miranda’s purchase of 1511 Ridgeway Ave stated that Miranda brought \$11,847.72 in cash to the closing.

117. The HUD-1 prepared by Taggart for Miranda’s purchase of 118 Chestnut Street stated that Miranda brought \$10,310.38 in cash to the closing.

118. The HUD-1 prepared by Taggart for Miranda’s purchase of 2811 Owen Street stated that Miranda brought \$11,965.76 in cash to the closing.

119. The statements on the HUD-1s prepared by Taggart set forth in paragraphs 116 through 118 above were false, as Miranda did not bring any cash to closing for the Durham purchases. The amounts purportedly brought by Miranda were in fact provided by Taggart.

120. Taggart knew, at the time he prepared the HUD-1s for Miranda’s Durham purchases, that the HUD-1s contained false information about the amount of cash brought to closing by Miranda.

121. Taggart, as seller, signed the HUD-1s for the sales of 1511 Ridgeway Ave and 118 Chestnut Street, certifying in each transaction that “to the best of [his] knowledge and belief,” the HUD-1 was “a true and accurate statement of all receipts and disbursements made on [his] account or by [him] in this transaction.” This certification was false.

122. On 20 April 2007, Robin M. Hiller purchased four properties in Clayton, North Carolina from Dwayne T. Hall Builder, LLC. The addresses of the properties purchased by Hiller on 20 April 2007 were:

- a. 314 North Lombard
- b. 408 Cooper Street
- c. 412 Cooper Street
- d. 416 Cooper Street

123. Taggart acted as the closing attorney for the 20 April 2007 transactions in which Hiller purchased the four properties identified in paragraph 122 from Hall (collectively, "Hiller's Clayton purchases"). As closing attorney, Taggart represented the buyer and the lender in the transaction.

124. For each of Hiller's Clayton purchases, Taggart prepared a deed of trust in favor of the mortgage lender which identified Hiller's husband, Timothy Hiller, as one of the grantors.

125. Taggart notarized what purported to be Timothy Hiller's signatures on the four deeds of trust identifying Timothy Hiller as a grantor.

126. Timothy Hiller did not sign the deeds of trust for Hiller's Clayton purchases, did not appear before Taggart on 20 April 2007, and did not affirm to Taggart that the signatures on the deeds of trust were his own.

127. The signatures purporting to be those of Timothy Hiller on the four deeds of trust related to Hiller's Clayton purchases were forgeries.

128. Taggart knew, at the time he notarized what purported to be Timothy Hiller's signatures on these four deeds of trust, that the signatures were forgeries.

129. Taggart filed these four deeds of trust identifying Timothy Hiller as a grantor and bearing forged signatures with the Johnston County Register of Deeds.

130. On 24 April 2007, Hiller purchased property located at 3619 Laurel Hills Drive, Raleigh, North Carolina ("the Laurel Hills Drive property").

131. Taggart acted as the closing attorney for the 24 April 2007 transaction in which Hiller purchased the Laurel Hills Drive property.

132. In connection with Hiller's purchase of the Laurel Hills Drive property, Taggart prepared two deeds of trust in favor of the mortgage lenders for the first and second mortgages.

133. Both deeds of trust prepared by Taggart in connection with Hiller's purchase of the Laurel Hills Drive property identified Hiller's husband, Timothy Hiller, as one of the grantors.

134. Taggart notarized what purported to be Timothy Hiller's signatures on these two deeds of trust identifying Timothy Hiller as a grantor.

135. Timothy Hiller did not sign the deeds of trust for Hiller's purchase of the Laurel Hills Drive Property, did not appear before Taggart on 24 April 2007, and did not affirm to Taggart that the signatures on the deeds of trust were his own.

136. The signatures purporting to be those of Timothy Hiller on the two deeds of trust related to Hiller's purchase of the Laurel Hills Drive property were forgeries.

137. Taggart knew, at the time he notarized what purported to be Timothy Hiller's signatures on these two deeds of trust, that the signatures were forgeries.

138. Taggart filed these two deeds of trust identifying Timothy Hiller as a grantor and bearing forged signatures with the Wake County Register of Deeds.

139. From 2004 through the present, Taggart has been the sole managing member and registered agent of Perpetual Properties, LLC, a North Carolina limited liability corporation ("Perpetual Properties").

140. During the period from July 2006 through January 2009, Taggart disbursed the following amounts from his law firm trust account to Perpetual Properties:

- a. \$8,000.00 on 11 July 2006
- b. \$10,073.95 on 18 January 2007
- c. \$4,500.00 on 5 October 2007
- d. \$6,000.00 on 2 November 2007
- e. \$1,000.00 on 3 December 2007
- f. \$5,000.00 on 4 December 2007
- g. \$5,915.77 on 27 June 2008
- h. \$5,000.00 on 8 July 2008
- i. \$3,400.00 on 31 July 2008
- j. \$5,500.00 on 4 August 2008
- k. \$10,000.00 on 25 August 2008
- l. \$5,309.00 on 3 September 2008
- m. \$2,500.00 on 18 September 2008
- n. \$5,000.00 on 6 October 2008
- o. \$1,000.00 on 21 October 2008
- p. \$3,000.00 on 21 November 2008
- q. \$7,300.00 on 4 December 2008
- r. \$1,500.00 on 26 December 2008
- s. \$3,000.00 on 30 December 2008
- t. \$4,000.00 on 5 January 2009

141. At the time Taggart made each of the disbursements to Perpetual Properties set forth in paragraph 140 above, there were no funds in Taggart's law firm trust account held on behalf of Perpetual Properties.

142. The funds disbursed by Taggart on each of the occasions set forth in paragraph 140 belonged to other clients of the firm.

143. The beneficial owners of the entrusted funds in the firm's trust account during the period from July 2006 through January 2009 did not authorize Taggart to use their funds for the benefit of Perpetual Properties.

144. Taggart knew, at the time he made each of the disbursements to Perpetual Properties set forth in paragraph 140 (totaling \$96,998.72), that those funds were held in trust for the benefit of other clients.

145. On 12 February 2008, the State Bar opened a grievance file against Taggart related to his conduct in the Hiller and Miranda transactions. This grievance was assigned file number 08G0179.

146. The State Bar issued a letter of notice to Taggart on or about 9 February 2009, advising him that a grievance had been filed against him. Taggart received the letter of notice regarding file number 08G0179 on 12 February 2009.

147. Pursuant to Rule .0112(c) of the State Bar's Discipline and Disability Rules, and as set forth in the letter of notice, Taggart was required to respond to the letter of notice by providing a "full and fair disclosure of all the facts and circumstances pertaining to the alleged misconduct."

148. Taggart submitted a letter to the State Bar in file number 08G0179 stating that he declined to respond to the letter of notice.

149. On 24 February 2009, the State Bar opened a grievance file against Taggart related to misappropriation from his law firm's trust account. This grievance was assigned file number 09G0217.

150. The State Bar issued a letter of notice to Taggart on or about 26 February 2009, advising him that a grievance had been filed against him. Taggart received the letter of notice regarding file number 09G0217 on 26 February 2009.

151. Pursuant to Rule .0112(c) of the State Bar's Discipline and Disability Rules, and as set forth in the letter of notice, Taggart was required to respond to the letter of notice by providing a "full and fair disclosure of all the facts and circumstances pertaining to the alleged misconduct."

152. Taggart submitted a letter to the State Bar in file number 09G0217 stating that he declined to respond to the letter of notice.

As previously found in the Default Judgment and now recited herein, based on the foregoing Findings of Fact the Committee enters the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Committee and the Committee has jurisdiction over Defendant, J. Scott Taggart, and the subject matter.
2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(2) and (3) as follows:
 - (a) By failing to administer Oriente's estate and failing to respond to notices from the court about its administration for over three years, Defendant knowingly disobeyed an obligation under the rules of a tribunal in violation of Rule 3.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
 - (b) By disbursing approximately \$162,000.00 from the Oriente Estate account to himself, his law firm, and one of his companies without authorization, Defendant used fiduciary funds for personal benefit or the benefit of a third party in violation of Rule 1.15-2(j), committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: embezzlement—in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
 - (c) By knowingly preparing HUD-1s containing false information, and providing those HUD-1s to the mortgage lender and sellers for John Walker's purchase of 19203 Coachman's Trace and Kenneth Walker's purchase of 19056 Coachman's Trace, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), assisted his clients—the buyers—in conduct he knew was criminal or fraudulent in violation of Rule 1.2(d), intentionally prejudiced his client—the lender—during the course of the professional relationship in violation of Rule 8.4(g), and committed criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: violation of 18 U.S.C. § 1001 and/or 18 U.S.C. § 1010—in violation of Rule 8.4(b);
 - (d) By disbursing loan proceeds for John Walker's purchase of 19203 Coachman's Trace and Kenneth Walker's purchase of 19056 Coachman's Trace to various individuals and entities without authorization from the mortgage lender, Defendant used entrusted funds for personal benefit or the benefit of a third person in violation of Rule 1.15-2(j), failed to pay entrusted funds as directed by the client in violation of Rule 1.15-2(m), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and committed criminal acts

reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: embezzlement—in violation of Rule 8.4(b);

- (e) By willfully and knowingly disbursing \$247,415.60 of entrusted funds belonging to the firm's clients to the Walkers without authorization from the beneficial owners of those funds, Defendant used entrusted funds for personal benefit and/or the benefit of a third party in violation of Rule 1.15-2(j), committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: embezzlement—in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (f) By willfully and knowingly using \$63,721.54 of entrusted funds belonging to the firm's other clients to fund EZN's purchase of the Belvin Ave property without authorization from the beneficial owners of those funds, Defendant used entrusted funds for the benefit of a third party in violation of Rule 1.15-2(j), committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: embezzlement—in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (g) By knowingly preparing a HUD-1 containing false information, and providing that HUD-1 to the mortgage lender for Miranda's purchase of the Lattyes Lane property, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: violation of 18 U.S.C. § 1001 and/or 18 U.S.C. § 1010—in violation of Rule 8.4(b);
- (h) By disbursing \$16,373.00 of the closing proceeds for the Lattyes Lane property to Lanier & Taggart, PLLC without authorization from the beneficial owners of those funds, Defendant used entrusted funds for personal benefit or the benefit of a third person in violation of Rule 1.15-2(j), failed to pay entrusted funds as directed by the client in violation of Rule 1.15-2(m), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- (i) By notarizing what he knew to be forged grantor's signatures on deeds of trust associated with Miranda's 5 February 2007 transaction, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), assisted a client in conduct he knew was criminal or fraudulent in violation of Rule 1.2(d), and committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: violation of N.C. Gen. Stat. § 10B 60(d)—in violation of Rule 8.4(b);

- (j) By knowingly preparing HUD-1s containing false information in connection with Miranda's Durham purchases, and falsely certifying that two of those HUD-1s were accurate statements of the receipts and disbursements, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c) and committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: violation of 18 U.S.C. § 1001 and/or 18 U.S.C. § 1010—in violation of Rule 8.4(b);
- (k) By notarizing what he knew to be forged grantor's signatures on deeds of trust associated with Hiller's transactions, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: violation of N.C. Gen. Stat. § 10B 60(d)—in violation of Rule 8.4(b);
- (l) By willfully and knowingly disbursing \$96,998.72 of entrusted funds belonging to the firm's clients to his company, Perpetual Properties, without authorization from the beneficial owners of those funds, Defendant used entrusted funds for personal benefit or the benefit of a third party in violation of Rule 1.15-2(j), committed a criminal act reflecting adversely on his honesty, trustworthiness or fitness as a lawyer—to wit: embezzlement—in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c); and
- (m) By failing to respond as required to the State Bar's letters of notice in file numbers 08G0179 and 09G0217, Defendant failed to respond to a lawful inquiry of a disciplinary authority in violation of Rule 8.1(b) and N.C.G.S. § 84-28(b)(3).

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

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings in paragraphs 1 through 152 above are reincorporated as if fully set forth herein.
2. The falsely inflated purchase prices and seller proceeds shown on the HUD-1s Taggart provided to Countrywide in connection with the Coachman's Trace transactions were designed to mislead the lender about the value of the properties which served as collateral for the mortgage loans.
3. The individuals whose entrusted funds were in Taggart's firm's trust account were, with respect to Taggart, either Taggart's clients or members of the public.

4. Taggart engaged in conduct involving misrepresentation and deceit over a period of at least five years.

5. Clients are entitled to attorneys they can trust. Taggart, by engaging in conduct involving misrepresentation and deceit over a substantial period of time, has shown himself to be not trustworthy.

6. Self-regulation of the legal profession relies upon the cooperation and participation of lawyers in the self-regulatory process. When a lawyer refuses to respond to a lawful inquiry from a disciplinary authority, it undermines the system of self-regulation.

7. The hearing committee has carefully considered all of the different forms of discipline available to it in considering the appropriate discipline to impose in this case.

Based upon the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact Regarding Discipline, and upon consideration of the factors set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(w), the hearing committee hereby enters the following additional

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. Taggart's misconduct is aggravated by the following factors:
 - a. Dishonest or selfish motive, evidenced by Taggart's multiple instances of dishonesty and use of entrusted funds for his own benefit;
 - b. A pattern of misconduct over a period of at least five years;
 - c. Multiple offenses; and
 - d. Substantial experience in the practice of law;
2. There is no evidence or information before this committee which tends to show any mitigating factors relevant to Taggart's misconduct.
3. In connection with the Coachman's Trace transactions, Taggart caused significant potential harm to his client, Countrywide, by knowingly providing false information designed to mislead the lender about the value of the properties which served as collateral for the mortgage loans.
4. Because the beneficial owners of the funds in Taggart's firm's trust account were, with respect to Taggart, either Taggart's clients or members of the public, Taggart caused significant harm or potential harm to his clients and/or the public by:

- a. Embezzling \$247,415.60 from his law firm's trust account to pay the Walkers;
- b. Embezzling \$63,721.54 from his law firm's trust account to fund EZN's purchase of the Belvin Ave property; and
- c. Embezzling \$96,998.72 from his law firm's trust account and disbursing it to his company, Perpetual Properties.

5. Taggart's embezzlement of approximately \$162,000.00 from the Oriente Estate also caused significant actual harm to the public because those funds were designated for the benefit of charitable organizations.

6. Taggart's actions caused significant actual harm to the administration of justice in that:

- a. Due to Taggart's inaction as executor of the Oriente Estate, the Clerk of Court unnecessarily expended resources issuing Notices to File and otherwise attempting to communicate with Taggart.
- b. Taggart knowingly notarized a total of four deeds of trust bearing forged signatures and filed them in the Wake County Register of Deeds, thereby causing false information to be placed in the public record.
- c. Taggart knowingly notarized four deeds of trust bearing forged signatures and filed them in the Johnston County Register of Deeds, thereby causing false information to be placed in the public record.

7. Taggart's actions caused significant potential harm to the profession in that his refusal to respond to lawful inquiries from the State Bar undermines the legal profession's ability to self-regulate. Taggart's repeated commission of criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer also caused significant potential harm to the profession, in that criminal conduct by attorneys tends to bring the legal profession into disrepute.

8. The hearing committee has considered lesser alternatives and finds that suspension of Taggart's license or a public censure, reprimand, or admonition would not be sufficient discipline because of the gravity of the actual and potential harm to his clients, the public, the administration of justice, and the legal profession caused by Taggart's conduct, and the threat of significant potential harm Taggart poses to the public.

9. The hearing committee considered all lesser sanctions and finds that discipline short of disbarment would not adequately protect the public for the following reasons:

- a. Taggart 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. Taggart repeatedly engaged in criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer, and engaged in abuses of trust by embezzling funds entrusted to his law firm and to Taggart as executor of an estate.
- c. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Taggart committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State.
- d. The protection of the public and the legal profession requires that Taggart not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, and the legal profession; and that permitting him to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice. Disbarred lawyers are required to make such a showing before they may resume practicing law.

Based upon the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the hearing committee hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, J. Scott Taggart, is hereby DISBARRED from the practice of law.
2. Defendant shall surrender his 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 pay the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the costs within 30 days of service upon him of the statement of costs by the Secretary.

4. Defendant shall comply with all provisions of 27 NCAC 1B § .0124 of the North Carolina State Bar Discipline & Disability Rules.

Signed by the Chair with the consent of the other Hearing Committee members, this the 10th day of November, 2009.

A handwritten signature in cursive script, reading "J. Michael Booe". The signature is written in black ink and is positioned above a horizontal line.

J. Michael Booe, Chair
Disciplinary Hearing Committee