12218

WAKE COUNTY

NORTH CAROLINA

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
01 DHC 3

THE NORTH CAROLINA STATE BAR Plaintiff	)	FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER OF DISCIPLINE
v.	)	
JEFFREY M. SEIGLE, ATTORNEY Defendant	)	

THIS MATTER came on to be heard and was heard on Aug. 23, 2001 before a duly appointed hearing committee of the Disciplinary Hearing Commission consisting of Joseph G. Maddrey, Chair; W. Steve Allen, Sr. and Robert B. Frantz. G. Bryan Collins Jr. represented the Defendant, Jeffrey M. Seigle. Carolin Bakewell represented the N.C. State Bar. Based upon the evidence introduced at the hearing and the pleadings, the hearing committee makes the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina 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 promulgated thereunder.

2. The Defendant, Jeffrey M. Seigle (hereafter, Seigle), was admitted to the North Carolina State Bar in 1984, and is, and, except as set out herein, 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. During all of the relevant periods referred to herein, Seigle was actively engaged in the practice of law in the State of North Carolina and maintained a law office in Raleigh, North Carolina.

4. On four occasions between August 1998 and April 1999, Seigle received $900 from clients who wished him to file a bankruptcy proceeding on

their behalf. The clients from whom Seigle received payment were Mr. & Mrs. Yates, Mr. & Mrs. Huling, Mr. & Mrs. Mathis and Mr. Ramsey.

5. Of the $900 which Seigle received from each of his four clients, $175 represented the filing fee and the remaining $725 represented Seigle's attorney fee for handling the case.

6. Seigle failed to hold the $175 filing fees in trust pending the filing of the bankruptcy petitions on his clients' behalf.

7. Instead, Seigle deposited the filing fees into his personal bank account and used the money for his own benefit.

8. Seigle did not have his clients' permission to use the filing fees for his own benefit.

9. When Seigle filed the bankruptcy petitions for the Hulings, Mathises, Yateses and Mr. Ramsey, he paid the filing fees with personal funds from other sources.

10. Although Seigle temporarily misused filing fees belonging to four of his clients, his actions were not the result of dishonesty or the intent to deprive his clients of their property.

11. In November 1997, Seigle undertook to file a Chapter 7 bankruptcy proceeding on behalf of Sean Albert Martin (hereafter, Martin). Martin paid Seigle $750, a portion of which represented the filing fee for Martin's case. Seigle deposited the filing fee in his personal bank account.

12. On March 13, 1998, Martin met with Seigle and executed the bankruptcy petition which Seigle had drafted.

13. Martin contacted Seigle several times between March 13, 1998 and June 1, 1999 to inquire about the status of the case. Despite this fact, Seigle did not file Martin's bankruptcy petition until June 1, 1999.

14. Even though the bankruptcy petition was actually completed and executed by Martin on March 13, 1998, Seigle dated the petition as of Jan. 15, 1999, for the purpose of concealing the fact that he had neglected Martin's bankruptcy case.

15. Seigle ultimately refunded the entire $750 paid to him by Martin, after Martin complained about the matter to the bankruptcy court.

16. Seigle failed to file timely state or federal personal income tax returns for the period 1996 – 1998, inclusive, nor did he pay state or federal income taxes owed for those years on a timely basis.

17. Seigle filed his tax returns for the years 1996 – 1998 in the year 2000 before he had been contacted by the North Carolina Department of Revenue or the Internal Revenue Service. He has not been criminally prosecuted for his failure to file returns for the years 1996 – 1998.

18. Between Jan. 1, 1997 and Nov. 30, 1999, Seigle failed to maintain the minimum records required for all trust and fiduciary accounts, including:

a) a ledger containing a record of each person or entity from whom or for whom trust money has been received which accurately reflects the current balance of funds held in trust for that person or entity.

b) a file of bank receipts or deposit slips listing the source, client and date of the receipt of all funds deposited into a trust or fiduciary account.

c) all canceled instruments drawn on the trust account.

19. On three occasions in 1997 and 1998, Seigle commingled client and personal funds in his attorney trust account number 0861302342 at First Union National Bank (hereafter, trust account), as follows:

a) On June 17, 1997, Seigle depositing an earned fee in the amount of $9,166.50 into his attorney trust account.

b) On June 30, 1998, Seigle deposited an earned fee in the amount of $175 into his attorney trust account.

c) On Dec. 30, 1998, Seigle deposited an earned fee in the amount of $97 into his attorney trust account.

20. Seigle has been a solo practitioner since he was licensed to practice law in 1984. He has never had any formal training in managing a trust account, was not familiar with the provisions of the Revised Rules of Professional Conduct regarding same and failed to distinguish between sums paid as an attorney fee and sums paid to him as a filing fee.

21. During the period in which Seigle mishandled four clients' filing fees, he received other client funds in trust and those funds were handled properly.

Based upon the foregoing findings of fact, the hearing committee hereby makes the following:

CONCLUSIONS OF LAW

1. By depositing client fiduciary funds into a personal account which contained personal funds, Seigle commingled client and personal funds in violation of Rule 1.15-1(a) and (d) of the Revised Rules of Professional Conduct.

2. By temporarily misappropriating funds belonging to four bankruptcy clients without their knowledge and consent, Seigle failed to hold client funds in trust in violation of Rule 1.15-1(e) and (h) of the Revised Rules of Professional Conduct.

3. By failing to maintain copies of all canceled instruments drawn on his trust account, a ledger containing a record of each person or entity from whom or for whom trust money has been received which accurately reflects the current balance of funds held in trust for that person or entity and by failing to maintain a file of bank receipts or deposit slips listing the source, client and date of the receipt of all funds deposited into a trust or fiduciary account, Seigle failed to maintain all records relating to his attorney trust account as required by Rule 1.15-2 of the Revised Rules of Professional Conduct.

4. By failing to file Martin's bankruptcy petition in a timely fashion, Seigle neglected a client matter in violation of Rule 1.3 of the Revised Rules of Professional Conduct.

5. By dating Martin's bankruptcy petition Jan. 15, 1999 when it in fact had been completed on March 13, 1998, Seigle engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Revised Rules of Professional Conduct and engaged in conduct involving fraud, dishonesty, deceit or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct.

6. By willfully failing to file timely state and federal personal income tax returns for the period 1995 – 1998, inclusive, Seigle engaged in criminal acts in violation of Rule 1.2(b) of the Rules of Professional Conduct and Rule 8.4(b) of the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of law, and based upon the evidence and arguments of the parties concerning the appropriate discipline, the hearing committee hereby makes the additional:

FINDINGS OF FACT REGARDING DISCIPLINE

1. A number of individuals, including several members of the judiciary, testified as to the defendant's good character and reputation and his history of community service activities during the second phase of this proceeding.

2. The defendant's misconduct is aggravated by the following factors:

   a. a pattern of misconduct
   b. substantial experience in the practice of law
   c. multiple offenses.

3. The defendant's misconduct is mitigated by the following factors:

   a. lack of dishonest intent or selfish motive regarding his mishandling of his attorney trust account.
   b. good character and reputation
   c. absence of a prior disciplinary record
   d. full and frank disclosure to the hearing committee and cooperative attitude toward the proceedings.

4. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing aggravating and mitigating factors and the arguments of the parties, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. The license of the defendant, Jeffrey Seigle, is hereby suspended for three years. All three years of the active suspension shall be stayed for five years upon the following conditions:

a. Seigle must file all federal and state personal income tax returns that are due and that have not yet been filed within 30 days of service of this order;

b. Seigle must file all federal and state returns on a timely basis throughout the five-year stay period.

c. Seigle must comply with any plan or agreement which he makes regarding payment of his federal or state income taxes, penalties and interest.

d. Seigle shall hire a certified public accountant at his own expense to conduct quarterly audits of Seigle's attorney trust account throughout the five- year stay period. The audits shall be conducted in accordance with the standards of auditing in the accounting profession and the Revised Rules of

Professional Conduct regarding the handling of client funds. Written reports of the results of the audits shall be filed with the State Bar not later than Oct. 1, Jan. 1, April 1 and July 1 of each year during the five year stay period. The first such audit shall be due Oct. 1, 2001.

e. Seigle shall not violate any state or federal law and shall not violate any provision of the Revised Rules of Professional Conduct.

f. Not later than 180 days after the date of this order Seigle shall complete six hours of continuing legal education courses dealing with the subject of trust accounts. The courses shall be offered by a sponsor approved by the State Bar. Seigle may obtain an extension of time to complete the courses upon receiving written permission from the Office of Counsel.

g. Seigle shall select a member of the Wake County bar, (the supervising attorney) to be approved by the Office of Counsel of the North Carolina State Bar to supervise Seigle's practice during the five year stay period. Seigle shall designate a supervising attorney and obtain the approval of the Office of Counsel within 15 days of the date of this order.

h. Seigle shall meet with the supervising attorney at least once a month and shall report to the supervising attorney the status of all current client matters, shall cooperate with the supervising attorney and shall provide any information the supervising attorney deems reasonably necessary to ensure that Seigle is handling all client matters in a timely fashion and that Seigle responds to his clients promptly. The cost, if any, of retaining the supervising attorney, shall be borne by Seigle.

i. The supervising attorney shall submit written quarterly reports to the Office of Counsel confirming that Seigle is complying with paragraphs 2(g) and (h) of this order. The reports shall be due on Oct. 1, Jan. 1, April 1 and July 1 of each year of the five-year stay period. The first report shall be due Oct. 1, 2001.

j. Within 180 days from the date of this order, Seigle shall enroll in a law office management course approved by the Office of Counsel of the North Carolina State Bar. Seigle may obtain an extension of time to enroll in the course upon receiving written permission from the Office of Counsel. Seigle shall remain enrolled in the course and shall successfully complete the course, at his own expense.

k. Prior to engaging in the private practice of law Seigle shall establish a separate operating account. He shall not use his personal or family bank accounts in connection with his law practice.

l. Seigle shall pay the costs of this proceeding within one year from the date of this order.

2. If Seigle violates any of the terms of the stay of the suspension set out herein, the entire three-year suspension of his law license shall be activated.

3. If Seigle's license is suspended for failure to comply with the terms of this order, he must comply with the following conditions prior to seeking reinstatement of his license:

a. Produce proof that he has filed all state and federal income tax returns.

b. Produce proof that he has paid all state and federal taxes then due, or, alternatively, that he has complied with any payment plan arrived at with the taxing authorities.

c. Complete six hours of continuing legal education courses dealing with the subject of trust accounts. The courses shall be offered by a sponsor approved by the State Bar.

d. Complete a law office management course approved by the Office of Counsel of the North Carolina State Bar at his own expense.

e. Establish a separate operating account if he plans to engage in the private practice of law.

f. Pay the costs of this proceeding.

g. Produce proof that he has complied with the other applicable terms and conditions set out in section .0125 of the State Bar Discipline & Disability Rules.

Signed by the chair of the hearing committee with the consent of all hearing committee members.

This the 25 day of September, 2001.

Joseph G. Maddrey, Chair
Disciplinary Hearing Committee