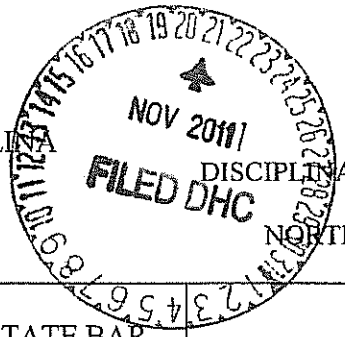

STATE OF NORTH CAROLINA

WAKE COUNTY

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

NOV 2011
FILED DHC

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| THE NORTH CAROLINA STATE BAR,<br>Plaintiff<br>v.<br>DEBORAH L. WILLIAMS, Attorney,<br>Defendant | CONSENT ORDER OF DISCIPLINE |

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of C. Colon Willoughby, Jr., Chair, Harriett T. Smalls and Patti Head pursuant to 27 N.C.A.C. 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten. Defendant, Deborah L. Williams, represented herself. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this order and to the discipline imposed. By consenting to the entry of this order, Defendant waives any right to appeal this consent order or to challenge it in any way.

Based upon the consent of the parties, the hearing panel hereby finds, by clear, cogent and convincing evidence, the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "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. Defendant, Deborah L. Williams ("Defendant" or "Williams"), was admitted to the North Carolina State Bar on 20 March 1993 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. During the times relevant herein, Williams actively engaged in the practice of law in the State of North Carolina and maintained a law office in Wilmington, New Hanover County, North Carolina.

4. From at least March 2004, Williams maintained an attorney trust account at RBC Centura Bank bearing account number ending in 1765 (hereinafter "the RBC account") and an attorney trust account at First Citizens Bank bearing account number ending in 0517 (hereinafter "the First Citizens account") into which Williams deposited entrusted client funds.

5. Williams did not identify the client(s) associated with multiple deposits into and withdrawals from the RBC account and the First Citizens account.

6. Williams did not perform quarterly or monthly reconciliations of the RBC account or the First Citizens account.

7. Williams did not maintain proper client ledgers which adequately tracked the deposit and withdrawal of clients' funds in the RBC account and/or the First Citizens account.

8. Williams did not retain complete records pertaining to entrusted funds received by her and deposited into or withdrawn from the RBC account and the First Citizens account, including but not limited to bank statements, bank receipts, wire and electronic transfer confirmations, check stubs, cancelled checks, deposit slips, and withdrawal slips.

9. Between at least March 2004 and the present, Williams failed to promptly disburse multiple clients' entrusted funds held in the RBC account and the First Citizens account.

Based upon the foregoing Findings of Fact, the panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Deborah L. Williams, and the subject matter of this proceeding.

2. Williams' conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

(a) By failing to identify the clients associated with numerous deposits into and withdrawals from her RBC and First Citizens trust accounts, Williams failed to properly deposit and maintain entrusted funds in her attorney trust accounts in violation of Rules 1.15-2(a), 1.15-3(b)(1) & 1.15-3(b)(2);

(b) By failing to maintain proper client ledgers and complete and accurate records for general trust accounts, and by failing to perform monthly and quarterly reconciliations of her trust accounts, Williams failed to adequately monitor and maintain her attorney trust accounts in violation of Rules 1.15-3(b)(2), (3), (4) and (5), and Rules 1.15-3(d)(1) and (2); and

(c) By unnecessarily retaining entrusted funds in her RBC and First Citizens trust accounts, Williams failed to act with diligence and promptness in representing clients in violation of Rule 1.3, and failed to promptly pay or deliver to her clients or to third persons as directed by the clients any entrusted property belonging to the clients in violation of Rule 1.15-2(m).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the consent of the parties, the hearing panel also finds by clear, cogent, and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant has substantial experience in the practice of law.

2. Defendant's continued failure to reconcile her trust accounts and maintain proper trust account records in accordance with the Rules of Professional Conduct demonstrates a pattern of misconduct that spans over seven (7) years.

3. Defendant's conduct caused significant harm to her clients in that her clients were deprived of the benefit of their funds held in Defendant's trust account for an unnecessarily lengthy period of time.

4. Defendant's conduct has the potential to cause significant harm to the standing of the profession in the eyes of the public because it shows her disregard for her duties as an attorney. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.

5. Defendant has no prior disciplinary offenses.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel also enters the following

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 carefully 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 pattern of misconduct; and

(c) Defendant's substantial experience in the practice of law.

2. The hearing panel has also carefully 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 of Defendant's license:

(a) Negative impact of Defendant's actions on client's or public's perception of the profession; and

(b) Impairment of the client's ability to achieve the goals of the representation.

3. The hearing panel has considered admonition, reprimand, and censure as potential discipline but concludes that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of harm to clients in the present case. Furthermore, the panel concludes that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

4. The hearing panel further concludes that the public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant designed to ensure protection of the public and continued compliance with the Rules of Professional Conduct.

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

ORDER OF DISCIPLINE

1. Defendant's license to practice law in the State of North Carolina is hereby suspended for one (1) year.

2. The period of suspension is stayed for three years upon Defendant's compliance with the following conditions:

(a) Within the first year of the stayed period of suspension, Defendant shall complete twelve (12) hours of continuing legal education in the area of trust account management approved in advance by the Office of Counsel of the North Carolina State Bar. These twelve hours are in addition to the continuing legal education requirements set out in 27 N.C.A.C. 1D § .1518;

(b) Within thirty (30) days of this order's effective date, Defendant shall open a new trust account at a bank of her choice out of which all transactions involving entrusted funds shall be handled from this point forward. Defendant shall cease all use of her RBC and First Citizens trust accounts identified above;

(c) Within ninety (90) days of this order's effective date, Defendant shall retain a certified public accountant ("CPA") approved in advance by the Office of Counsel who shall audit her RBC and First Citizens trust accounts. Defendant shall cooperate with the CPA to ensure the audit is completed in a timely fashion. The CPA shall provide monthly written reports to the State Bar updating the State Bar on the audit's progress until the audit is complete. Upon completion of the audit, the CPA shall provide the State Bar with a written final audit report confirming that Defendant's trust accounts comply with the Rules of Professional Conduct. It is Defendant's sole responsibility to ensure the CPA completes and submits the reports as required herein;

(d) Within ninety (90) days of the CPA completing his or her audit of Defendant's trust accounts, Defendant shall disburse all identified client funds existing in Defendant's RBC and First Citizens trust accounts to their rightful owner(s);

(e) Defendant shall comply with Rule 1.15-2(q) regarding all unidentified funds existing in Defendant's RBC and First Citizens trust accounts and comply with Chapter 116B of the General Statutes within sixty (60) days of being statutorily permitted to escheat funds to the State. Defendant shall close her RBC and First Citizens trust accounts within thirty (30) days of her final disbursement of funds from her trust accounts;

(f) Beginning within ninety (90) days of this order's effective date, Defendant shall also have the CPA audit Defendant's new trust account (as required in paragraph (b) above) on a quarterly basis to ensure Defendant's compliance with the Rules of Professional Conduct. The CPA must report quarterly to the Office of Counsel concerning the compliance of Defendant's account(s) with the Rules of Professional Conduct, including but not limited to any accounting irregularities and any deviance from the requirements of the Rules of Professional Conduct, with a copy of the report sent simultaneously to Defendant. The CPA's reports are due no later than 30 days after the end of each quarter (first quarter's report due April 30, second quarter's report due July 30, third quarter's report due October 30, and fourth quarter's report due January 30). It is Defendant's sole responsibility to ensure the CPA completes and submits the reports as required herein;

(g) If any of the CPA's reports note any irregularities or deficiencies, Defendant shall take all remedial action necessary to bring the trust account into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the Office of Counsel of the State Bar and to the CPA within thirty (30) days of the date of the CPA's report;

(h) If any of the CPA's reports note any irregularities or deficiencies in Defendant's handling of entrusted funds, the CPA shall provide a subsequent report regarding whether Defendant's remedial actions were sufficient and whether Defendant's account(s) has been brought into compliance with the Rules of Professional Conduct. The CPA shall provide this report regarding remedial measures to the Office of Counsel within thirty (30) days of Defendant's provision of proof of remedial action. It is Defendant's sole responsibility to ensure the CPA completes and submits the report(s) as required herein;

(i) Failure of the CPA to submit any report required by this Order shall be grounds to lift the stay and activate the suspension;

(j) All evaluations, reports, and services of the CPA will be completed and submitted at Defendant's sole expense;

(k) Defendant shall pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education requirements on a timely basis;

(l) Defendant shall keep the North Carolina State Bar membership department advised of her current physical home and business addresses and telephone numbers. Defendant shall accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen (15) days of receipt of such communication, whichever is later;

(m) Defendant shall not violate any state or federal laws or any provisions of the Rules of Professional Conduct during the period of the stayed suspension; and

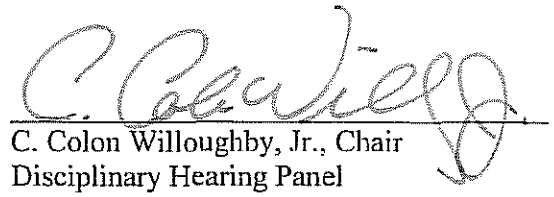
(n) Defendant shall pay all costs and administrative fees of this proceeding as assessed by the Secretary within 30 days after service of the statement of costs and administrative fees upon her.

3. If Defendant fails to comply with any one or more of the conditions stated in Paragraph 2 above, then the stay of the suspension of her law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. If the stay is lifted and the suspension of Defendant's license is activated for any reason, before a subsequent stay of the suspension can be entered or before Defendant's reinstatement to the active practice of law in North Carolina Defendant must show by clear, cogent, and convincing evidence that she has complied with the terms of 27 N.C. Admin. Code 1B § .0124 of the State Bar Discipline & Disability Rules and that she has complied with each of the conditions referenced in Paragraphs 2(a) – (n) during the period of suspension.

4. All costs and administrative fees of this action are taxed to Defendant. Defendant must pay the costs and administrative fees of this action within 30 days of service upon her by the Secretary of the statement of costs and administrative fees.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension. This order shall be effective upon the date it is filed.

Signed by the Chair with the consent of the other hearing panel members, this the 21 day of November, 2011.



C. Colon Willoughby, Jr., Chair
Disciplinary Hearing Panel

CONSENTED TO BY:

Brian P.D. Oten
Deputy Counsel
North Carolina State Bar
Counsel for Plaintiff

Deborah L. Williams
Defendant