

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

WAKE COUNTY

2017 MAY -9 AM 10:56

FILE NO.: 17 CVS 005557

THE NORTH CAROLINA STATE BAR, OLC.

Petitioner *as*

v.

TEMPORARY RESTRAINING
ORDER

JOE S. MAJOR, III, Attorney,

Respondent

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court pursuant to a Motion for Temporary Restraining Order and Petition for Preliminary Injunction filed by the North Carolina State Bar. Petitioner, the North Carolina State Bar, was represented by Jennifer A. Porter. Respondent, Joe S. Major, III, *did not appear and was not represented.* Based upon the Motion and the affidavit attached thereto, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency 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. Respondent, Joe S. Major, III ("Major"), was licensed to practice law in North Carolina in 1970.

3. The State Bar's membership database shows the following address for Major: 2100 Hassell Place, Charlotte, NC 28209.

4. Major was retained by MBYZ to handle her financial matters. MBYZ signed a general power of attorney appointing Major as her agent and attorney in fact on July 19, 1995, and this power of attorney was recorded with the Mecklenburg County Register of Deeds on February 27, 1997.

5. On November 20, 2015, MBYZ signed a general power of attorney revoking all other prior powers of attorney. In the November 20, 2015 power of attorney, MBYZ appointed Major and another person, AFO, as agents. This power of attorney was recorded with the Mecklenburg County Register of Deeds on November 20, 2015.

6. On December 21, 2015, MBYZ signed a revocation of power of attorney, revoking the November 20, 2015 power of attorney. This revocation was served upon Major by certified mail at his office address. Major was simultaneously served with another revocation revoking a limited power of attorney from MBYZ dated May 21, 2015.

7. Subsequent to the revocation of the powers of attorney, Major made unauthorized disbursements to himself from MBYZ's funds, including but not limited to the following: from at least January 2016 through October 2016, totaling \$77,800.00, by the below-listed checks he wrote to himself from MBYZ's funds from an account in the name of MBYZ "by Joe S Major Attorney in Fact":

01/28/2016	Check #2397 to Joe Major for \$10,000.00
02/22/2016	Check #2457 to Joe Major for \$7,000.00
03/08/2016	Check #5624 to Joe Major for \$8,000.00
04/14/2016	Check #5644 to Joe Major for \$3,500.00
04/04/2016	Check #5626 to Joe Major for \$6,000.00
05/27/2016	Check #5628 to Joe Major for \$3,000.00
05/17/2016	Check #5625 to Joe Major for \$6,000.00
06/08/2016	Check #5635 to Joe Major for \$2,000.00
07/11/2016	Check #5629 to Joe Major for \$3,000.00
07/05/2016	Check #5627 to Joe Major for \$4,000.00
08/01/2016	Check #5637 to Joe Major for \$4,200.00
07/27/2016	Check #5636 to Joe Major for \$5,000.00
08/12/2016	Check #5632 to Joe Major for \$4,000.00
09/07/2016	Check #2341 to Joe Major for \$5,000.00
09/30/2016	Check #2275 to Joe Major for \$600.00
08/23/2016	Check #2340 to Joe Major for \$4,000.00
10/13/2016	Check #2276 to Joe Major for \$2,500.00

8. The State Bar's investigation into Major's handling of MBYZ's funds, both prior to the revocation of the powers of attorney in December 2015 and subsequent to the revocations, is ongoing.

9. A need for prompt action exists to ensure that further fiduciary funds are not misappropriated or mishandled in the future.

Based upon the foregoing findings, the Court makes the following:

CONCLUSIONS OF LAW

1. This Court has personal jurisdiction over Respondent and jurisdiction over the subject matter. This matter is properly before the Wake County Superior Court pursuant to N.C. Gen. Stat. § 84-28(f).

2. Major misappropriated fiduciary funds from MBYZ. Major's conduct is in violation of the North Carolina Rules of Professional Conduct and constitutes grounds for discipline under N.C. Gen. Stat. § 84-28(b).

3. Prompt action, pursuant to N.C. Gen. Stat. § 84-28(f), is necessary to preserve the status quo and to ensure that no further entrusted or fiduciary funds are misappropriated or mishandled.

4. Major should be enjoined from receiving any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from withdrawing funds from and/or writing checks against any account in which client or fiduciary funds have been deposited, including personal accounts, and from directing any employee or agent to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited, including personal accounts, except as expressly authorized by this order.

5. To assist the State Bar's investigation, Major should provide the State Bar with records of all accounts to which he has or had access into which client or fiduciary funds have been deposited, including all accounts, whether personal accounts or fiduciary accounts, into which misappropriated or mishandled fiduciary funds were deposited.

6. Major should not be permitted to serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until further order of this Court.

THEREFORE, IT IS HEREBY ORDERED:

1. Joe S. Major, III is enjoined from receiving any funds from or on behalf of clients or other individuals in a fiduciary capacity; writing checks against or otherwise disbursing or withdrawing funds from any account in which client or fiduciary funds have been deposited, including operating or personal accounts into which misappropriated or mishandled fiduciary funds were deposited; and/or directing any employee or agent to draw a check on or otherwise disburse or withdraw funds from any account in which client or fiduciary funds have been deposited, including operating personal accounts into which misappropriated or mishandled fiduciary funds were deposited, until permitted by subsequent orders of the Court.

2. This matter is scheduled for a hearing on the Petitioner's Petition for a Preliminary Injunction on the 15th day of May, 2017 at 10 A.M in the Wake County Courthouse, Courtroom 10-C in Raleigh, North Carolina.

3. Joe S. Major, III or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited, including misappropriated or mishandled fiduciary funds, shall immediately produce to

the North Carolina State Bar at its location in Raleigh, North Carolina for inspection and copying all financial records for any account into which any trust or fiduciary funds have been deposited, such accounts to include his firm's operating account(s) and his personal accounts if applicable and such records to include but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs, deposited items, debit memos, credit card transaction information, and any other records relating to the receipt and disbursement of client and/or fiduciary funds, as requested by the State Bar.

4. If Major does not have possession of the records described above or of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct, he shall direct the bank(s) where his trust and operating bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at its Raleigh, North Carolina location, at Major's expense.

5. Major, or any other person having custody or control over records described herein, shall produce to the State Bar for inspection and copying any or all client files needed by the State Bar for its investigation. "Client files" shall include all records and documents relating to individuals or entities for whom Major has provided legal or fiduciary services, including but not limited to settlement statements, HUD-1 Settlement Statements, billing statements, accountings, fee agreements, correspondence, litigation documents, memoranda and receipts. Current client files shall be produced at the State Bar offices in Raleigh, North Carolina within 24 hours of request by the State Bar and closed client files shall be produced at the State Bar offices in Raleigh, North Carolina within 3 days of request by the State Bar.

6. Major shall not serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until further order of this Court.

This Temporary Restraining Order shall remain in effect until the 15th day of May, 2017 unless extended by further orders of this Court.

THIS the 6th day of May, 2017 at 10:55 A.M.



Superior Court Judge, Presiding