

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

SUPERIOR COURT DIVISION

FILE NO.: 23 CVS 7622-910

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

J. MICHAEL EDNEY, Attorney,

Respondent

CONSENT ORDER OF
PRELIMINARY INJUNCTION

THIS MATTER came on for consideration by the undersigned Judge on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Jennifer A. Porter. Respondent, J. Michael Edney, appeared *pro se*. Based upon the consent of the parties, 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). The State Bar brings this action pursuant to N.C. Gen. Stat. § 84-28(f).

2. Respondent, J. Michael Edney ("Edney"), was licensed to practice law in North Carolina in 1985.

3. The State Bar's membership database shows the following address for Edney: 132 3rd Avenue, Suite B, Hendersonville, NC 27707.

4. The State Bar has received information indicating Edney mishandled entrusted funds.

5. Edney has failed to provide the documents subpoenaed from him by the State Bar necessary for the State Bar to identify the clients for whom all transactions in his trust account during the audit period were made and determine whether all funds that should be in his trust accounts for his clients are present in the accounts.

6. Edney desires to cooperate with the North Carolina State Bar.

7. A need for prompt action exists to preserve the status quo and ensure that entrusted funds are not mishandled.

8. Edney stipulates to the Wake County Superior Court's jurisdiction over his person, acknowledges the Court's subject matter jurisdiction pursuant to N.C. Gen. Stat. § 84-28(f), and waives any right to challenge or appeal this order on jurisdictional grounds.

BASED UPON THE FOREGOING FINDINGS, and with the consent of the parties, 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. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Edney's trust accounts and any other accounts into which client or fiduciary funds have been deposited, including, if applicable, operating and personal bank accounts, and to ensure that no further entrusted funds are mishandled.

3. Edney should be enjoined from receiving or disbursing any further entrusted funds (as defined in the definition of "trust funds" in Rule 1.15-1(s) of the North Carolina Rules of Professional Conduct) from or on behalf of clients, from receiving or disbursing any funds from any individual or entity in any fiduciary capacity, from withdrawing funds from and/or writing checks against any account in which client funds (as defined in the definition of "trust funds" in Rule 1.15-1(s) of the North Carolina Rules of Professional Conduct and hereafter referenced as "client funds" or "trust funds") 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 or until and unless authorized by subsequent order of the Court.

4. To assist the State Bar's analysis of his accounts, Edney should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited and with all client files requested by the State Bar as set forth below.

5. To assist the State Bar's analysis of his trust accounts, Edney should provide the State Bar with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

6. Edney should be prohibited from serving as a trustee, escrow agent, settlement agent, attorney-in-fact, executor, personal representative or in any other fiduciary capacity.

THEREFORE, IT IS HEREBY ORDERED:

1. J. Michael Edney is enjoined from the following until permitted by subsequent orders of the Court: receiving or disbursing any entrusted funds (as defined in the definition of "trust funds" in Rule 1.15-1(s) of the North Carolina Rules of Professional Conduct) from or on behalf of clients; receiving or disbursing any funds from any individual or entity in any 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 client or 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 or personal accounts into which misappropriated or mishandled client or fiduciary funds were deposited.

2. Edney, or any other person having custody or control of records relating to any account into which client funds or fiduciary funds have been deposited, including misappropriated or mishandled client or fiduciary funds, shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying all financial records relating to any account into which client or fiduciary funds have been deposited, such accounts to include his firm's operating account(s) and his personal bank 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.

3. Edney, or any other person having custody or control over records relating to individuals for whom Edney has provided legal or fiduciary services, shall produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying any or all client files needed by the State Bar for its audit. "Client files" shall include all records and documents relating to individuals or entities for whom Edney 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.

4. If Edney 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 necessary to comply with any State Bar request directly to the North Carolina State Bar at its Raleigh, North Carolina location, at Edney's expense.

5. Edney shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location the monthly and quarterly reconciliation reports for any and all trust accounts that he is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of

Professional Conduct. If Edney has not prepared such reports as required, Edney is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.

6. Prior to any request to this Court to vacate or dissolve this injunction, Edney shall have provided the North Carolina State Bar at its Raleigh, North Carolina location an accurate three-way reconciliation report compliant with Rule 1.15-3(d)(2) of the North Carolina Rules of Professional Conduct for any and all trust accounts maintained by Edney with a balance as of the entry of the injunction for the month immediately preceding any such request, with all corresponding documentation, including but not limited to the applicable bank statement, list of client balances with client names and respective balances and total identifying all funds in the trust account, client ledgers compliant with Rule 1.15-3(b)(5) for all clients with funds in the trust account, an office ledger for any office funds in the trust account for maintenance of the account, and a general ledger for the trust account.

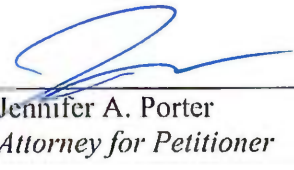
7. Edney shall not serve in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact until further order of this Court.

8. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

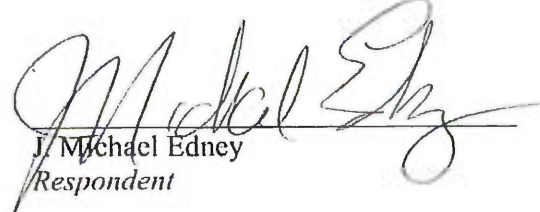
THIS the 12th day of April, 2023.


Superior Court Judge Presiding

CONSENT TO BY:



Jennifer A. Porter
Attorney for Petitioner



J. Michael Edney
Respondent