

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 10 CVS

THE NORTH CAROLINA STATE BAR,

v. BY Petitioner

TEMPORARY RESTRAINING
ORDER

J. NEAL RODGERS, Attorney,

Respondent

THIS MATTER came on to be heard by the undersigned Judge of Superior Court of Wake County pursuant to Petitioner's Motion for Temporary Restraining Order and Petition for Preliminary Injunction and by consent of the parties. Petitioner, the North Carolina State Bar was represented by Leonor Bailey Hodge. Respondent, J. Neal Rodgers was represented by Alan M. Schneider. Based upon the evidence presented to the Court and upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Respondent, J. Neal Rodgers ("Rodgers"), was licensed to practice law in North Carolina in 1994.

2. Rodgers practices law in Charlotte, North Carolina. The North Carolina State Bar's ("State Bar") membership database shows the following address for Rodgers: 901 Central Avenue, Charlotte, NC 28204.

3. Rodgers maintained two trust accounts: Wachovia Bank trust account ending in no. 1778 ("1778 Account") and Wachovia Bank trust account ending in 2225 ("2225 Account").

4. The State Bar conducted an analysis of Rodgers' trust accounts after a client complained of Rodgers' failure to fully refund a cash deposit and another client complained of Rodgers' failure to refund an unearned fee.

5. The State Bar's analysis shows that Rodgers mishandled entrusted client funds in the 2225 Account in that:

- a. On or about 30 April 2008, \$3,816 was transferred from the 2225 Account as overdraft protection to cover a shortage in Rodgers' firm operating account;

- b. From 23 May 2008 through 27 May 2008, Rodgers had less money in the 2225 Account than that which he was supposed to be holding on behalf of clients though his trust account did not show a negative balance;
- c. On or about 3 June 2008, Rodgers withdrew \$4,000 from the 2225 Account without identifying the client on whose behalf the funds were withdrawn; Rodgers was unable to explain this withdrawal or to show that he was entitled to these funds;
- d. From 3 June 2008 through 26 June 2008, Rodgers had less money in the 2225 Account than that which he was supposed to be holding on behalf of clients though his trust account did not show a negative balance;
- e. On 16 October 2008, Rodgers transferred \$20,000 from the 2225 Account to his operating account without identifying the client on whose behalf this transfer was made; Rodgers was unable to explain this withdrawal or to show that he was entitled to these funds;
- f. On 17 October 2008, Rodgers transferred \$5,000 from the 2225 Account to his operating account without identifying the client on whose behalf this transfer was made; Rodgers was unable to explain this withdrawal or to show that he was entitled to these funds;
- g. From 16 October 2008 through 16 April 2009, Rodgers had less money in the 2225 Account than that which he was supposed to be holding on behalf of clients, and on 21 October 2008 Rodgers' 2225 Account had a negative balance.

6. The State Bar's analysis shows that Rodgers mishandled entrusted client funds in the 1778 Account in that:

- a. From 26 March 2009 through 31 March 2009, Rodgers had less money in the 1778 Account than that which he was supposed to be holding on behalf of clients though his trust account did not show a negative balance.

7. The foregoing facts establish that funds held in trust by Rodgers have been mishandled in violation of Rule 1.15-2 of the Revised Rules Professional Conduct.

8. A need for prompt action exists to ensure that additional client funds entrusted to Rodgers are not mishandled to the client's detriment.

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

CONCLUSIONS OF LAW

1. Prompt action, pursuant to N.C. Gen. Stat. § 84-28(f), is necessary to preserve the status quo while the State Bar continues its analysis of Rodgers' trust and operating accounts and to ensure that no client funds are mishandled.

2. Rodgers should be enjoined from accepting 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, and from directing any employee or agent over whom Rodgers exercises control to withdraw funds from and/or draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this order.

3. To assist the State Bar's analysis of his trust and operating accounts, Rodgers should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited.

4. Rodgers 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. J. Neal Rodgers is enjoined from serving in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact; 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; and/or directing or permitting any employee or agent over whom Rodgers exercises control to draw a check on or otherwise disburse or withdraw funds from any account in which client or fiduciary funds have been deposited. This does not prohibit an independent attorney with an active North Carolina law license over whom Rodgers does not exercise control from handling entrusted funds on behalf of Rodgers' clients.

2. This matter is scheduled for a hearing on the State Bar's Petition for a Preliminary Injunction on the 10th day of January, 2011 at 10 A. M. in the Wake County Courthouse, Courtroom 10-C in Raleigh, North Carolina.

3. J. Neal Rodgers, or any other person having custody or control of his trust account records, immediately produce to the State Bar upon request any of Rodgers' bank records for accounts into which any trust or fiduciary funds have been deposited, including but not limited to bank statements, canceled checks, deposit slips, identification of deposited items, client ledger sheets and any other records relating to the receipt and disbursement of client or fiduciary funds.

4. If Rodgers does not have possession of the minimum records regarding trust funds required to be maintained pursuant to Rule 1.15-3 of the Rules of Professional Conduct, that he direct the bank(s) where his trust accounts(s) are maintained to copy and transmit any such missing records directly to the State Bar at Rodgers' expense.

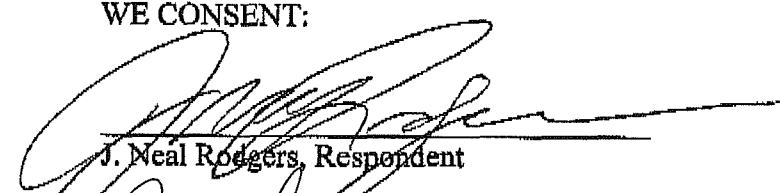
5. That Rodgers, or any other person having custody or control over records described herein, produce to the State Bar for inspection and copying all records and documents relating to individuals or entities for whom Rodgers has provided legal services, including but not limited to client files, billing statements, memoranda and receipts. Current client files shall be produced within 24 hours of demand by the State Bar and closed client files shall be produced within 3 days of demand by the State Bar.

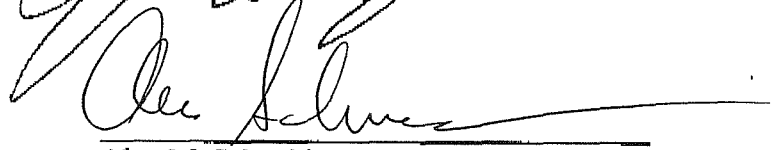
6. This Temporary Restraining Order shall remain in effect until the 10th day of January, 2011 unless extended by further orders of this Court.

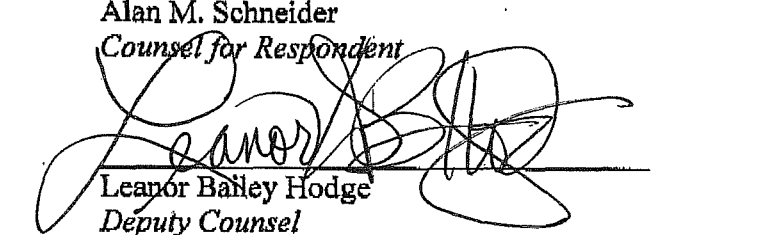
THIS the 22 day of December, 2010 at 11:00 A.M.


Wake County Superior Court Judge

WE CONSENT:


J. Neal Rodgers, Respondent


Alan M. Schneider
Counsel for Respondent


Leanor Bailey Hodge
Deputy Counsel
The North Carolina State Bar