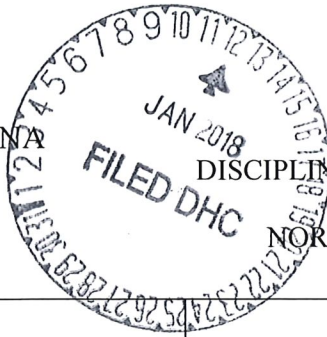


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 5

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

TANIA LOVE LEON, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

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, Tania Love Leon ("Defendant" or "Leon"), was admitted to the North Carolina State Bar in August 1992 and is an Attorney at Law 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.

Upon information and belief:

3. From 29 October 2010 until 22 September 2014, Leon was an inactive member of the North Carolina State Bar and was not engaged in the practice of law in North Carolina during that time.

4. During the relevant period referred to herein after 22 September 2014, Leon was engaged in the practice of law in Charlotte, Mecklenburg County, North Carolina.

FIRST CLAIM FOR RELIEF

5. Paragraphs 1 through 4 are re-alleged and incorporated as if set forth herein.

6. Defendant married J.E.H. on 6 October 2006.

7. Prior to his marriage to Defendant, J.E.H. maintained a Duke Energy Dividend Reinvestment Plan account ("DRIP account").

8. In 2007, J.E.H. converted the status of the DRIP account from solely-owned to jointly-owned with Defendant, at which time Defendant gained access to the account.

9. In September 2013, J.E.H. filed for divorce from Defendant in Spartanburg County, South Carolina (“the divorce action”).

10. On 18 December 2013, the court entered an order in the divorce action restraining the parties from disposing of marital assets.

11. During the first or second week of January 2014, Defendant logged in to the website for the DRIP account and changed the information associated with the account so that J.E.H. would not be able to access the account online.

12. Defendant made these account changes intending to conceal account activity from J.E.H.

13. On 16 January 2014, Defendant withdrew \$29,894.89 from the DRIP account.

14. Defendant’s withdrawal of \$29,894.89 from the DRIP account was not authorized by J.E.H. and prohibited by the 18 December 2013 court order in the divorce action.

15. On 16 January 2014, Duke issued a check for \$29,894.89, payable to Defendant and J.E.H.

16. Because the check was payable to both Defendant and J.E.H., the bank was unlikely to accept the check for deposit without endorsements from both of them.

17. J.E.H. did not endorse the check or authorize anyone to endorse the check on his behalf.

18. On or about 24 January 2014, Defendant signed J.E.H.’s name to the back of the check.

19. Defendant intended that her signature of J.E.H.’s name on the check be received by the bank and others as J.E.H.’s genuine act of endorsement.

20. On 24 January 2014, Defendant presented the check for deposit into her personal bank account.

21. In the State Bar’s investigation of this matter, Defendant represented to the State Bar that she did not make any changes to the DRIP account information.

22. At the time Defendant made this representation to the State Bar, she knew it was false.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline:

(1) Pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of her actions as follows:

- (a) By changing the DRIP account information to conceal her unauthorized withdrawal of \$29,894.89, Defendant engaged in conduct involving dishonesty, deceit, misrepresentation, or fraud in violation of Rule 8.4(c);
- (b) By signing J.E.H.'s name to the \$29,894.89 check and presenting it for deposit, Defendant committed a criminal act reflecting adversely on her honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (c) By representing to the State Bar that she made no changes to the DRIP account information, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c); and

(2) Pursuant to N.C. Gen Stat § 84-28(b)(3) in that Defendant made a knowing misrepresentation of facts or circumstances surrounding a complaint, allegation, or charge of misconduct.

SECOND CLAIM FOR RELIEF

23. Paragraphs 1 through 9 are re-alleged and incorporated as if set forth herein.

24. On 27 February 2007, J.E.H. executed a promissory note in favor of Defendant for \$174,000.00 ("the 2007 note").

25. Contemporaneous with J.E.H.'s execution of the 2007 note, Defendant executed a deed rendering J.E.H. and Defendant tenants by the entireties of a condominium located at 301 West Tenth Street in Charlotte.

26. The terms of the 2007 note required J.E.H. to (1) cancel the \$39,354.79 balance of a promissory note Defendant had executed in favor of J.E.H. on 18 August 2006, (2) assume one-half of Defendant's \$101,764.28 mortgage obligation on the 301 West Tenth Street condominium, and (3) transfer to Defendant ownership of stocks or securities with a market value of \$83,763.00.

27. In November 2009, J.E.H. executed a promissory note and deed of trust that rendered him, with Defendant, jointly and severally liable on a \$130,000.00 mortgage on the 301 West Tenth Street condominium.

28. The proceeds from the \$130,000.00 mortgage obtained by Defendant and J.E.H. in November 2009 were used to pay off Defendant's mortgage obligation referenced in the 2007 note.

29. By becoming obligated on \$130,000.00 mortgage on the 301 West Tenth Street condominium which was used to pay off Defendant's mortgage obligation referenced in the 2007 note, J.E.H. satisfied that term of the 2007 note.

30. On 15 September 2014, Defendant sent J.E.H. a letter demanding payment of \$174,000.00 pursuant to the 2007 note and indicating that she would proceed with litigation in Mecklenburg County if she did not hear from J.E.H. by 29 September 2014.

31. On 29 September 2014, J.E.H. filed a motion in the divorce action for an order restraining the Defendant from bringing any action against J.E.H. in North Carolina "over matters arising out of the marital relationship" over which the South Carolina court had jurisdiction.

32. On 29 September 2014, Defendant filed an action in Mecklenburg County, North Carolina, alleging that J.E.H. had "performed none of the terms of the installment schedule" and was thereby in default of the terms of the 2007 note and seeking judgment in the full amount of the note plus interest and costs ("Mecklenburg County action").

33. Defendant's assertion in her Complaint that J.E.H. had performed none of the terms of the installment schedule set out in the 2007 note was false.

34. Defendant knew when she made the representation set forth above that the representation was false.

35. Defendant verified the Complaint, affirming under oath that that the facts set forth in the Complaint were true and correct.

36. When Defendant affirmed under oath that the facts set forth in the Complaint were true, she knew that the assertion that J.E.H. had performed none of the terms of the installment schedule set out in the 2007 note was false.

37. On 8 October 2014, J.E.H. filed an additional motion in the divorce action to enjoin Defendant from proceeding with the Mecklenburg County action on the grounds that, because it was marital property, the South Carolina court had jurisdiction over the subject matter of the 2007 note.

38. On 8 October 2014, J.E.H. filed with the South Carolina court the cancelled 18 August 2006 promissory note for \$39,000.00.

39. By order dated 29 October 2014, the court ordered that Defendant be restrained from proceeding in the Mecklenburg County action and that J.E.H. not be required to file any responsive pleadings or otherwise participate in the Mecklenburg County action until a final hearing on the merits of the divorce action.

40. The hearing on the merits of the divorce action was held on 17 and 18 December 2014.

41. As memorialized in the final divorce decree entered 16 January 2015, the court found that the 2007 note was marital property and that J.E.H. had complied with the repayment terms of the 2007 note by becoming obligated on the \$130,000.00 mortgage on the 301 West Tenth Street condominium, placing Defendant's name on the DRIP account, and canceling the 18 August 2006 promissory note.

42. In addition, as part of the final divorce decree, the court ordered that Defendant receive one half of the \$140,000.00 value of the DRIP account plus an additional \$7,500.00 from that account.

43. The final divorce decree included a provision ordering Defendant to take the steps necessary to record a satisfaction of the 2007 note, in the event that the 2007 note or any document evidencing the 2007 note was recorded anywhere.

44. Pursuant to the various orders, Decrees, and Judgments in the divorce action, South Carolina had jurisdiction of the matters at issue in the Mecklenburg County action, Defendant had been restrained from proceeding with her prosecution of the Mecklenburg County action, and the promissory note that formed the basis of the Mecklenburg County action had been deemed "satisfied."

45. On 24 February 2015, Defendant filed notice of her appeal of the 16 January 2015 Final Decree of Divorce.

46. One of the grounds on which Defendant appealed the Final Decree of Divorce was that, because the parties' premarital agreement rendered the 2007 note separate property, the trial court erred in determining that the 2007 note was marital property and lacked jurisdiction to deal with or apportion that property.

47. On 19 August 2015, Defendant and J.E.H. entered into an agreement whereby J.E.H. conveyed his interest in the 301 West Tenth Street condominium back to Defendant and she agreed to indemnify him from any additional obligation on the mortgage.

48. Because of what had transpired in the South Carolina courts and between the parties since December 2014, Defendant had no basis in law or fact to proceed with the Mecklenburg County action.

49. On 4 September 2015, Defendant filed in the Mecklenburg County action a Motion for Default pursuant to Rule 55 of the North Carolina Rules of Civil Procedure.

50. The motion Defendant filed was styled "Motion for Entry of Default" but included factual assertions relevant to entry of default judgment, i.e., that the Complaint was for a specified sum certain.

51. The Civil Action Cover Sheet Defendant submitted with the Motion indicated that Defendant was submitting a Motion for Entry of Default and Default Judgment.

52. Defendant submitted with the Motion a Judgment by Default form which she intended to be completed and signed by a judge or the clerk.

53. Defendant intended her Motion for Entry of Default to serve as a request that the court or clerk (1) enter default against J.E.H. for failing to respond to the complaint and (2) enter judgment by default against J.E.H. for \$174,000.00 plus 8% interest on the principal amount from 29 September 2014 and costs of service and court.

54. Defendant represented in her Motion that J.E.H. was subject to default because the time for filing an answer or pleading had expired and she had not been served or provided with an answer, motion for extension of time to answer, or any pleading or communication from J.E.H. that might be deemed an appearance.

55. J.E.H. was represented in the divorce action and pending appeal by Attorney George Brandt ("Brandt").

56. With the occurrence of the facts set forth at Paragraphs 40-47, J.E.H. and Brandt believed that Defendant would not continue to prosecute the Mecklenburg County action.

57. Defendant did not inform either J.E.H. or Brandt of her intent to seek entry of default against J.E.H. or otherwise proceed with the Mecklenburg County action.

58. Neither J.E.H. nor Brandt had knowledge of Defendant's pursuit of the Mecklenburg County action.

59. Because of the circumstances of Defendant's pursuit of the Mecklenburg County action, Defendant's representation as set forth in Paragraph 54 was misleading.

60. Rule 55(b)(1) provides that, in order for the clerk to enter judgment by default, the plaintiff must provide the clerk an "affidavit of the amount due" or submit a verified pleading "in lieu of an affidavit when the pleading contains information sufficient to determine or compute the sum certain."

61. Defendant verified her Motion, affirming under oath that the facts set forth in the Complaint were, as of 4 September 2015, still true and correct.

62. Defendant's assertion that the facts set forth in the complaint were true and correct as of 4 September 2015 was false.

63. When Defendant affirmed under oath that the facts set forth in the Complaint were still true in September 2015, she knew that her assertion was false.

64. Defendant intended her verification of the Motion to serve as the affidavit of the amount due or verified pleading required by Rule 55(b)(1).

65. Defendant made the representations set forth in Paragraphs 54 and 61 with the intention of misleading the court.

66. Defendant made her Motion for Default with knowledge that it was frivolous and without basis in law and fact.

67. Defendant made her Motion for Default with knowledge that it relied on factual misrepresentations and misleading omissions.

68. Defendant made the representations set forth above for the purpose of inducing the court to enter a judgment against J.E.H. to which Defendant was not entitled.

69. Defendant did not serve the Motion for Default on either Brandt or J.E.H. or otherwise notify either of them that she had filed it.

70. Defendant intended to conceal her pursuit of the Mecklenburg County action from J.E.H.

71. On 15 September 2015, the Clerk of Superior Court of Mecklenburg County issued entry of default against J.E.H.

72. Defendant did not serve J.E.H. or Brandt with a copy of the entry of default or otherwise notify either of them of its entry.

73. Contemporaneous with the entry of default, an Assistant Clerk of Superior Court sent Defendant a letter indicating that Judgment by Default would not be entered without a hearing before a judge.

74. On 23 March 2016, Defendant filed a Notice of Motion indicating that a hearing would be held on her Motion for Entry of Default Judgment on 5 April 2016.

75. J.E.H. received notice of the 5 April 2016 hearing and retained counsel, who filed motions seeking to set aside entry of default and enlarge J.E.H.'s time to serve and file an Answer or other responsive pleading.

76. After a hearing on 19 April 2016, the court declined to enter default judgment against J.E.H.

77. On 24 May 2016, Defendant filed a notice of voluntary dismissal of the Mecklenburg County action.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of her actions as follows:

- (a) By asserting to the court in a verified complaint in September 2014 that J.E.H. had performed none of the terms of the promissory note, Defendant knowingly made a false statement of material fact to a tribunal in violation of Rule 3.3(a)(1) and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c) and that was prejudicial to the administration of justice in violation of Rule 8.4(d);
- (b) By filing the verified motion for entry of default and default judgment against J.E.H. in September 2015, Defendant asserted an issue in a proceeding without a non-frivolous basis in law or fact in violation of Rule 3.1, knowingly made false statements of material fact to a tribunal in violation of Rule 3.3(a)(1), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c) and that was prejudicial to the administration of justice in violation of Rule 8.4(d); and
- (c) By taking steps to conceal from J.E.H. her pursuit of the Mecklenburg County action, Defendant engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c) and that was prejudicial to the administration of justice in violation of Rule 8.4(d).

WHEREFORE, Plaintiff prays that:

- 1. Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 and as the evidence on hearing may warrant;
- 2. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding; and
- 3. For such other and further relief as the Hearing Panel deems appropriate.

This the 11th day of January, 2018.



Maria J. Brown, Deputy Counsel
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North Carolina State Bar
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Signed pursuant to 27 N.C. Admin. Code 1B
§ .0113(n) and §.0105(a)(10).



DeWitt F. McCarley, Chair
Grievance Committee