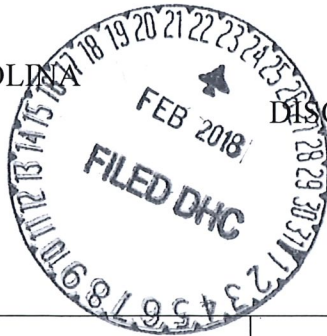


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 16

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

GEORGE L. COLLINS, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, George L. Collins ("Collins" or "Defendant"), was admitted to the North Carolina State Bar in 1983, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Jacksonville, North Carolina.

4. In October of 2012, Defendant drafted a last will and testament for a client, K.P.

5. The last will and testament that Defendant drafted for K.P. named Defendant as the "Personal Representative" of the last will and testament of K.P. and the executor of her estate.

6. The last will and testament that Defendant drafted for K.P. granted Defendant the “continuing, absolute, discretionary power to deal with any property, real or personal, held in [K.P.’s] estate, as freely as [K.P.] might in the handling of [her] own affairs.”

7. The last will and testament that Defendant drafted for K.P. noted that his discretionary power could “be exercised independently and without the prior or subsequent approval of any court or judicial authority, and no person dealing with such Personal Representative shall be required to inquire into the propriety of any of the actions of such Personal Representative.”

8. The last will and testament that Defendant drafted for K.P. also indicated that he would be, as Personal Representative, “paid his normal hourly rate for the services rendered” to the estate, “based upon his rate schedule at the time these services are rendered and without the necessity of the approval of the Clerk of Court.”

9. K.P. passed away in May of 2015, at which point Defendant began serving as the executor of her estate.

10. From May 2015 to May 2017, Defendant disbursed to himself \$257,041.50 from the Estate of K.P. for “342.722 hours of work” allegedly done for the estate; this represented an hourly rate of \$750.00.

11. The funds that Defendant received from the Estate of K.P. were paid to him through his law firm, “George Collins, P.A.”

12. Defendant had never before charged an estate \$750.00 an hour to serve as an executor.

13. Defendant did not charge the Estate of K.P. his “normal hourly rate”; he charged far in excess of his normal hourly rate for the services he allegedly rendered to or on behalf of the estate.

14. At various points from May 2015 to May 2017, for his own financial benefit, Defendant charged the Estate of K.P. for services that did not benefit the estate or its beneficiaries, for tasks that either did not need to be completed or could have been completed at significantly lower cost, including, but not limited to, the following:

- a. In May of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$450.00 to, as he characterized it, “Visit to townhouse but Meredith not there”;
- b. In May of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$750.00 on one occasion and \$375.00 on another occasion for, as he characterized it, two separate “Meeting[s] with Locksmith”;
- c. In May of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$1,125.00 to, as he characterized it, “Search for safety deposit box key”;

- d. In May of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$450.00 to, as he characterized it, "Return modem to Time Warner Cable";
- e. In June of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$750.00 for, as he characterized it, "Met with locksmith to open closet" and \$1,500.00 for, as he characterized it, "Met with locksmith for closet; transfer items to closet";
- f. In July of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$750.00 to, as he characterized it, "Check on house";
- g. In July of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$750.00 to, as he characterized it, "Confirm with Humphrey Moving that no items remain in storage";
- h. In September of 2015, Defendant unnecessarily charged and collected from the Estate of K.P. \$11,250.00 for fifteen hours of work allegedly completed in a single day for, as he characterized it, "Examination and review of real estate appraisals";
- i. In November and December of 2015, Defendant unnecessarily charged the Estate of K.P. \$9,000.00 for time spent during those months to determine the value of stock, stock he had already sold on behalf of the estate in September of 2015; and
- j. In April of 2017, Defendant unnecessarily charged and collected from the Estate of K.P. \$9,000.00 for twelve hours of work allegedly completed in a single day to "prepare for his deposition" in the civil litigation against for his mishandling of the Estate of K.P.

15. Defendant collected the fees he charged the Estate of K.P. prior to obtaining any order from the Clerk of Court approving either his rate or his fees for his services as executor.

16. On May 8, 2017, when Defendant filed the Final Accounting for the Estate of K.P., Defendant executed an affidavit asserting to the Onslow County Superior Court that "\$750.00 per hour is the hourly amount of his normal rate for estates in excess of \$200,000.00 in value."

17. Defendant's sworn statement to the Onslow County Superior Court that "\$750.00 per hour is the hourly amount of his normal rate" was false.

18. Defendant's repeated representations to the beneficiaries of the Estate of K.P. that \$750.00 was his "normal hourly rate" were false.

19. Pursuant to N.C. Gen. Stat. § 14-90, Defendant owed a fiduciary duty to the estate, a duty to act in the estate's best interests and to not use the property of the estate for his own personal benefit.

20. Defendant failed to fulfill his fiduciary duty to the estate.

21. Defendant's misuse of the estate assets led to civil litigation against him by the residual beneficiary of the estate and a significant delay in the management and closing of the estate.

22. In response to the State Bar's inquiry during the investigative stage of this matter, Defendant again represented that \$750.00 was his "normal hourly rate."

23. Defendant's representation to the State Bar that \$750.00 was his "normal hourly rate" was false.

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 the conduct as follows:

(a) By charging and collecting a fee that was far greater than his normal hourly rate and by charging the estate for services that were not for the benefit of the estate, Defendant collected an illegal or excessive fee in violation of Rule 1.5(a);

(b) By falsely representing to the beneficiaries of the estate that he would charge and was charging the estate his normal hourly rate, Defendant misrepresented the services he would provide in violation of Rule 7.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

(c) By falsely representing to the State Bar during the grievance process that he had charged the Estate of K.P. his normal hourly rate, Defendant knowingly made a false statement in a disciplinary matter in violation of Rule 8.1(a) and engaged in conduct involving dishonesty, fraud, deceit, and/or misrepresentation in violation of Rule 8.4(c);

(d) By submitting a sworn statement to the Onslow County Superior Court representing that "\$750.00 per hour is the hourly amount of his normal rate," Defendant committed perjury, thereby committing a felonious criminal act reflecting adversely on his honesty, trustworthiness, and fitness as a lawyer in violation of Rule 8.4(b), made a false statement of material fact to a tribunal in violation of Rule 3.3(a), and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

(e) By charging and collecting a fee that was far greater than his normal hourly rate and by charging the estate for services that were not for the benefit of the estate, Defendant failed to properly maintain and disburse fiduciary funds in violation of Rule 1.15-2(a) and (n);

(f) By knowingly and willingly using the property of the estate under his care as executor for his own use and personal benefit and not for the purposes of benefitting the estate and its beneficiaries, Defendant engaged in embezzlement, in violation of N.C. Gen. Stat. § 14-90, a felonious criminal act reflecting adversely on his honesty,

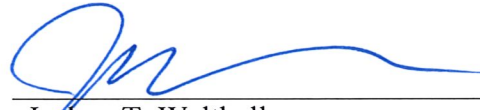
trustworthiness, and fitness as a lawyer in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and

(g) By failing to properly and fairly act as executor of the estate such that a significant delay in the closing of the estate occurred, Defendant engaged in activity 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. Gen. Stat. § 84-28(a) as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 23rd day of FEBRUARY 2018.



Joshua T. Walthall
Deputy Counsel
State Bar No. 46482
The North Carolina State Bar
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Raleigh, NC 27611
919-828-4620
Attorney for the Plaintiff

Signed pursuant to 27 N.C. Admin. Code 1B.0113(n) and 1B.0105(a)(10).



DeWitt F. McCarley, Chair
Grievance Committee