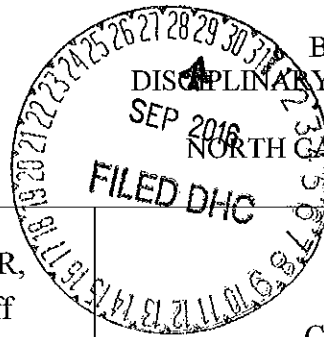


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
16 DHC 32

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

ANDREW C. JACKSON, JR., Attorney,
Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereafter "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, Andrew C. Jackson, Jr. (hereafter "Defendant" or "Jackson"), was admitted to the North Carolina State Bar on 27 August 2010 and is an attorney at law licensed to practice in North Carolina, 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.

3. During the relevant period referred to herein, Jackson was actively engaged in the practice of law in West Jefferson, Ashe County, North Carolina.

4. Jackson maintained a trust account in connection with his law practice at First Citizens Bank, account number ending in 9327 ("trust account").

5. Jackson used his trust account as a general trust account.

6. In or around December 2011, Jackson employed nonlawyer assistant Pamela Roark ("Roark") as a paralegal and office manager.

7. Jackson had managerial and direct supervisory authority over Roark during her employment with his firm.

8. While employed with Jackson's firm, Roark's job duties included bookkeeping and monitoring the firm's handling of entrusted funds deposited in the trust account.

9. Jackson also gave Roark access to the trust account checkbook and online access to the trust account.

10. Jackson failed to review his trust account's bank statements, failed to reconcile his account, and otherwise failed to monitor his trust account.

11. Jackson also failed to review Roark's handling and monitoring of entrusted funds deposited in the trust account.

12. In June 2012, Jackson discovered that Roark had misappropriated money from the trust account.

13. Upon discovering the theft, Jackson failed to undertake a full review of the trust account.

14. Jackson failed to report the theft of funds from the trust account to the State Bar.

15. Jackson did not terminate Roark's employment after discovering the theft in June 2012.

16. Instead, after discovering the theft by Roark, Jackson continued to employ Roark at the firm and continued to delegate the firm's handling and monitoring of entrusted funds to Roark.

17. Jackson again failed to review his trust account's bank statements, failed to reconcile his account, and otherwise failed to monitor his trust account.

18. Jackson again failed to review Roark's handling and monitoring of entrusted funds deposited in the trust account.

19. In August 2013, Jackson discovered additional theft by Roark of entrusted funds from the trust account.

20. Jackson terminated Roark's employment with the firm in August 2013.

21. Jackson failed to promptly report the second theft of funds from the trust account to the State Bar.

22. On 6 August 2014, the State Bar conducted a random procedural audit of Jackson's trust account.

23. The audit revealed numerous failures by Jackson to properly monitor and maintain required records for his trust account. Specifically, the audit revealed that Jackson engaged in the following conduct:

(a) Jackson failed to conduct the required monthly and quarterly reconciliations;

(b) Jackson failed to always identify the source of funds on deposit slips;

(c) On occasion, Jackson advanced funds to clients using funds belonging to other clients, resulting in negative client balances within the trust account and funds

being used for the benefit of someone other than the beneficiary owner of the funds;

(d) Jackson failed to provide a copy of an amended directive to the bank; and

(e) Jackson failed to obtain legible and appropriately sized copies of check images (front and back).

24. On 17 October 2014, after completing the random audit process, Jackson reported to the State Bar that Roark had misappropriated money from his trust account. Jackson also reported the theft to law enforcement.

25. Jackson's failure to review Roark's work and failure to reconcile and review his trust account as required by the Rules of Professional Conduct enabled Roark's theft.

26. In total, Roark misappropriated approximately \$79,000 in entrusted funds from Jackson's trust account.

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

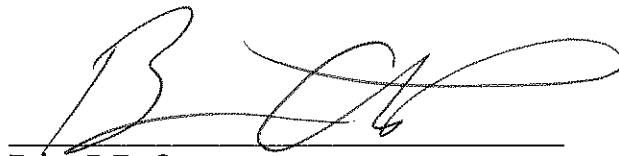
- (a) By failing to review his nonlawyer assistant's handling and record-keeping of entrusted funds, thereby enabling the nonlawyer assistant to engage in continued theft of entrusted funds over a period of approximately 18 months, Jackson failed to supervise his nonlawyer assistant to the extent necessary to ensure that her conduct was compatible with Jackson's professional obligations in violation of Rule 5.3(b);
- (b) By failing to report Roark's initial theft to the State Bar and by failing to report Roark's additional theft to the State Bar upon discovery in August 2013 for over one year, Jackson failed to immediately report his discovery of misappropriation to the State Bar in violation of Rule 1.15-2(o) (presently codified as Rule 1.15-2(p));
- (c) By failing to reconcile his trust accounts on a monthly and quarterly basis, Jackson failed to conduct the requisite reconciliations of his trust accounts in violation of Rules 1.15-3(d)(1) and (2);
- (d) By failing to identify the client on all deposit slips and electronic wire transfers, Jackson violated Rule 1.15-3(b)(1);
- (e) By advancing funds for a client from funds belonging to another client who was not the beneficiary of those funds, Jackson used or pledged entrusted property for the personal benefit of a person other than the legal or beneficial owner of that property in violation of Rule 1.15-2(a) and Rule 1.15-2(j) (presently codified as Rule 1.15-2(k));

- (f) By not providing the bank with a copy of the amended directive concerning his trust account, Jackson failed to file with the bank a written directive requiring the bank to report to the executive director of the North Carolina State Bar when an instrument drawn on the account is presented for payment against insufficient funds in violation of Rule 1.15-2(k) (presently codified as Rule 1.15-2(l)); and
- (g) By failing to obtain appropriate digital images of canceled checks drawn on the trust account, Defendant failed to maintain minimum records for trust accounts in violation of Rule 1.15-3(b)(2)(A).

WHEREFORE, Plaintiff prays that:

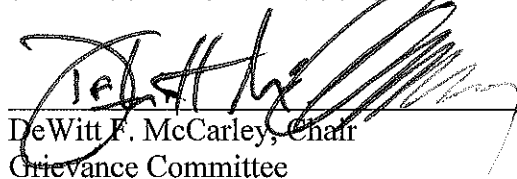
- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(c) and 27 N.C. Admin. Code 1B § .0114 as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

THIS the 29th day of September, 2016.



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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