JUN 2015
FILED DHC

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 4

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

SIR-CHRISTOPHER J. ANDERSON,
Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF DISCIPLINE

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Beverly T. Beal, Chair, Joshua W. Willey, Jr., and Bradley Lail pursuant to 27 N.C. Admin. Code 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten. Defendant, Sir-Christopher J. Anderson, has not participated in this matter and no counsel of record has appeared on his behalf.

On Plaintiff's motion, judgment by default was entered against Defendant. Based upon the pleadings, other filings, and admissions pursuant to 27 Admin. Code Chapter 1, Subchapter B, § .0114(f) and Rule 8(d) of the North Carolina Rules of Civil Procedure, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

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, Sir-Christopher J. Anderson ("Defendant" or "Anderson"), was admitted to the North Carolina State Bar on 24 August 2007 and is, and was at all times referred to herein, 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 a portion of the relevant periods referred to herein, Anderson was actively engaged in the private practice of law in the city of Henderson, Vance County, North Carolina.

BTB

4. During a portion of the relevant periods referred to herein, Anderson was actively suspended from the practice of law pursuant to the State Bar's Order of Administrative Suspension dated 4 March 2014, effective 7 May 2014.

5. Anderson was properly served with process in this action.

6. During 2013, Anderson maintained an attorney trust account at Fidelity Bank, account number ending in 7263, to which he had exclusive access.

7. During 2013, Anderson maintained an operating account for his law practice at Fidelity Bank, account number ending in 7255, to which he had exclusive access.

8. In or around January 2013, Charles Hoyle ("Hoyle") retained Anderson for representation in a traffic case in Warren County.

9. Hoyle paid $363.00 to Anderson for the representation.

10. Hoyle's payment of $363.00 included $100.00 for Anderson's legal fee and $263.00 for anticipated court costs and fines.

11. The $263.00 provided by Hoyle to Anderson for anticipated court costs and fines were entrusted client funds.

12. Hoyle instructed Anderson and expected Anderson to pay the court costs and fines imposed in Hoyle's traffic case using the funds Hoyle provided to Anderson.

13. Anderson did not deposit Hoyle's $363.00 payment in his attorney trust account.

14. Anderson deposited Hoyle's $363.00 payment in his operating account.

15. Hoyle's traffic case was initially scheduled for hearing on 27 February 2013, but Anderson continued the case twice and set the case for hearing in May 2013.

16. Anderson did not inform Hoyle about continuing Hoyle's case.

17. After the original February 2013 hearing date, Hoyle made inquiries to Anderson requesting an update on the status of his case.

18. Anderson did not respond to Hoyle's inquiries.

19. At the May 2013 hearing, Hoyle – through Anderson – pled guilty to the traffic violation of improper equipment.

20. Anderson failed to pay Hoyle's court costs and fines imposed as a result of Hoyle's traffic violation.

21. After his traffic case was resolved, Anderson notified Hoyle of the resolution and instructed Hoyle to pay the imposed court costs and fines.

BTB

22. Hoyle responded to Anderson's communication by reminding Anderson that he had previously provided Anderson with funds to pay the imposed court costs and fines, and requesting Anderson contact him about the status of the case.

23. Anderson did not respond to Hoyle's communication.

24. Hoyle subsequently made numerous inquiries to Anderson requesting an update on the status of his case.

25. Anderson did not respond to Hoyle's inquiries.

26. Hoyle paid the court costs and fines imposed in his traffic case himself using additional personal funds.

27. Anderson never refunded any portion of Hoyle's $363.00 payment, including the $263.00 in entrusted client funds deposited in Anderson's operating account.

28. Anderson's operating account should have maintained a balance of at least $263.00 during the time Hoyle's entrusted funds were deposited in the operating account.

29. On or about 25 April 2013, Anderson's operating account balance dipped below $263.00.

30. Anderson disbursed Hoyle's $263.00 to himself or to a third party for Anderson's personal benefit or for the benefit of someone other than Hoyle.

31. Anderson was not entitled to the $263.00 he disbursed to himself or to a third party for his personal benefit or for the benefit of someone other than Hoyle, and Anderson did not have Hoyle's authorization to disburse those funds.

32. Anderson misappropriated $263.00 of Hoyle's funds.

33. On or about 12 August 2013, Hoyle filed a Petition for Resolution of Disputed Fee against Anderson with the State Bar, file no. 13FD0370.

34. On or about 12 August 2013, the State Bar sent Anderson a Notification of Mandatory Fee Dispute Resolution in file no. 13FD0370. Anderson was served with the fee dispute notification on 13 August 2013 and was required to provide a written response to the fee dispute notification within fifteen days of receiving the notification.

35. Anderson did not provide his written response within fifteen days of receiving the fee dispute notification as required.

36. In or around February 2013, Nicholas Lind ("Lind") retained Anderson for representation in a traffic case in Franklin County.

37. Lind paid $363.00 to Anderson for the representation.

BTB

38. Lind's payment of $363.00 included $100.00 for Anderson's legal fee and $263.00 for anticipated court costs and fines.

39. The $263.00 provided by Lind to Anderson for anticipated court costs and fines were entrusted client funds.

40. Lind instructed Anderson and expected Anderson to pay the court costs and fines imposed in Lind's traffic case using the funds Lind provided to Anderson.

41. Anderson did not deposit Lind's $363.00 payment in his attorney trust account.

42. Anderson deposited Lind's $363.00 payment in his operating account.

43. Lind's traffic case was scheduled for hearing in or around May 2013.

44. Anderson failed to appear on Lind's behalf at the May 2013 hearing.

45. By letter dated 20 May 2013, the North Carolina Department of Motor Vehicles informed Lind that his license would be suspended for his failure to appear at the May 2013 hearing date.

46. Throughout the representation, Lind made numerous inquiries to Anderson requesting an update on the status of his case.

47. Anderson did not respond to Lind's inquiries.

48. Lind's traffic case was eventually dismissed, and Lind was never required to pay court costs or fines associated with his traffic case.

49. Anderson never refunded any portion of Lind's $363.00 payment, including the $263.00 in entrusted client funds deposited in Anderson's operating account.

50. Anderson's operating account should have maintained a balance of at least $263.00 during the time Lind's funds were deposited in the operating account.

51. On or about 25 April 2013, Anderson's operating account balance dipped below $263.00.

52. Anderson disbursed Lind's $263.00 to himself or to a third party for Anderson's personal benefit or for the benefit of someone other than Lind.

53. Anderson was not entitled to the $263.00 he disbursed to himself or to a third party for his personal benefit or for the benefit of someone other than Lind, and Anderson did not have Lind's authorization to disburse those funds.

54. Anderson misappropriated $263.00 of Lind's funds.

BTB

55. During 2013, Anderson failed to deposit entrusted funds he received for the benefit of multiple clients in his trust account. Instead, Anderson deposited the entrusted client funds into his operating account along with his personal funds.

56. During the State Bar's investigation of Anderson's conduct, and in response to a State Bar inquiry, Anderson falsely claimed that the only entrusted client funds he ever deposited into his operating account were the funds belonging to Hoyle.

57. Anderson failed to perform all quarterly or monthly reconciliations of accounts into which he deposited entrusted client funds as required by the Rules of Professional Conduct.

58. Anderson failed to maintain proper client ledgers which accurately tracked the deposit and withdrawal of all clients' funds entrusted to him.

59. On or about 27 September 2013, Anderson was served by the State Bar with a Notice to Show Cause why his license to practice law in North Carolina should not be suspended for his failure to comply with mandatory membership requirements.

60. Anderson did not resolve his membership requirement deficiencies as instructed by the Order to Appear and Show Cause.

61. On or about 8 March 2014, Anderson was served by the State Bar with an Order of Suspension for his failure to comply with mandatory membership requirements.

62. Effective 7 May 2014, Anderson was suspended from the practice of law in North Carolina.

63. Anderson did not inform his employer or his clients of his suspension.

64. Anderson continued to practice law in North Carolina while suspended from the practice of law, including but not limited to multiple foreclosure hearings and appearing on behalf of a client in Pitt County Superior Court.

65. In June 2014, during the State Bar's investigation of Anderson's conduct and in response to a State Bar inquiry, Anderson acknowledged to State Bar staff that he was aware of his suspension but falsely represented that he did not engage in the practice of law after the suspension went into effect.

66. In July 2014, Anderson's employer learned of Anderson's suspension and asked Anderson if he knew of the suspension.

67. Anderson falsely represented to his employer that he first learned of the suspension from his employer.

As previously found in the Default Judgment and now recited herein, based upon the foregoing Findings of Fact, the panel enters the following

BTB

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Sir-Christopher J. Anderson, and the subject matter of this proceeding.

2. Anderson's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

(a) By failing to deposit Hoyle's entrusted client funds in his trust account and instead depositing Hoyle's entrusted funds in his operating account, Anderson failed to preserve entrusted funds provided to him and failed to deposit entrusted funds in either a general trust account or a dedicated trust account of the lawyer in violation of Rules 1.15-2(a) and (b);

(b) By failing to pay the court costs and fines associated with Hoyle's traffic violation as instructed by Hoyle, Anderson failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to promptly pay or deliver entrusted property to a third person as directed by his client to which his client was entitled in violation of Rule 1.15-2(m);

(c) By failing to respond and/or promptly respond to Hoyle's inquiries about the status of his case, Anderson failed to keep his client reasonably informed about the status of his matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

(d) By disbursing $263.00 of entrusted client funds to himself, his law practice, or to a third party for his personal benefit or the benefit of a person other than the legal or beneficial owner of the funds without authorization to do so from the legal or beneficial owner of the funds, Anderson failed to preserve entrusted funds provided to him in violation of Rules 1.15-2(a) and (b), misappropriated and used entrusted funds for his personal benefit or the benefit of a person other than the legal or beneficial owner of the funds in violation of Rule 1.15-2(j), committed a criminal act that reflects adversely on his honesty, trustworthiness or 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);

(e) By failing to provide a written response to fee dispute file no. 13FD0370 as required, Anderson failed to participate in good faith in the State Bar's fee dispute resolution process in violation of Rule 1.5(f)(2);

(f) By failing to deposit Lind's entrusted client funds in his trust account and instead depositing Lind's entrusted funds in his operating account, Anderson failed to preserve entrusted funds provided to him and failed to deposit entrusted funds in either a general trust account or a dedicated trust account of the lawyer in violation of Rules 1.15-2(a) and (b);

BTB

(g) By failing to appear at Lind's hearing date, Anderson failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and engaged in conduct that was prejudicial to the administration of justice in violation of Rule 8.4(d);

(h) By failing to respond and/or promptly respond to Lind's inquiries about the status of his case, Anderson failed to keep his client reasonably informed about the status of his matter in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

(i) By disbursing $263.00 of entrusted client funds to himself, his law practice, or to a third party for his personal benefit or the benefit of a person other than the legal or beneficial owner of the funds without authorization to do so from the legal or beneficial owner of the funds, Anderson failed to preserve entrusted funds provided to him in violation of Rules 1.15-2(a) and (b), misappropriated and used entrusted funds for his personal benefit or the benefit of a person other than the legal or beneficial owner of the funds in violation of Rule 1.15-2(j), committed a criminal act that reflects adversely on his honesty, trustworthiness or 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);

(j) By failing to deposit entrusted client funds in his trust account and instead depositing entrusted client funds in his operating account, Anderson failed to preserve entrusted funds provided to him and failed to deposit entrusted funds in either a general trust account or a dedicated trust account of the lawyer in violation of Rules 1.15-2(a) and (b);

(k) By failing to maintain proper client ledgers and by failing to perform monthly and quarterly reconciliations of the accounts into which he deposited entrusted client funds, Anderson failed to properly handle and disburse entrusted funds in violation of Rule 1.15-2(a) and failed to adequately monitor and maintain his attorney trust account in violation of Rules 1.15-3(b)(5), 1.15-3(d)(1), and 1.15-3(d)(2);

(l) By falsely stating to the State Bar that he never deposited entrusted client funds other than the entrusted client funds belonging to Hoyle into his operating account, Anderson 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, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

(m) By continuing to practice law while administratively suspended from the practice of law in North Carolina, Anderson engaged in the unauthorized practice of law in violation of Rule 5.5(a);

BTB

(n) By falsely representing to the State Bar that he did not engage in the practice of law during his administrative suspension, Anderson 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, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and

(o) By falsely representing to his employer that he first learned of the administrative suspension from his employer, Anderson engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c).

Based upon the foregoing Findings of Fact and Conclusions of Law, the hearing panel finds by clear, cogent, and convincing evidence the following additional

FINDINGS REGARDING DISCIPLINE

1. Anderson's conduct – to wit: severe neglect of multiple client matters, failure to adequately communicate with his clients, failure to resolve the matters for which he was retained, and misappropriation of entrusted client funds – impaired his clients' ability to achieve the goals of the representation, deprived his clients of the use of the funds entrusted to Anderson's care, and unnecessarily delayed resolution of his clients' pending cases, including but not limited to clients Hoyle and Lind.

2. Anderson's known and willful misapplication and conversion to his personal use of entrusted client funds constitutes embezzlement pursuant to N.C. Gen. Stat. § 14-90, a felony criminal offense.

3. Clients are entitled to attorneys they can trust. Anderson, by engaging in neglectful and dishonest conduct, has shown himself to be not trustworthy.

4. Anderson misappropriated his clients' funds and abandoned his law practice without making any efforts toward restitution for his clients. In doing so, Anderson elevated his interests above those of his clients. Anderson's conduct demonstrates his dishonest and selfish motive, his intent to cause the resulting harm or potential harm, and his intent to commit acts where the harm or potential harm is foreseeable.

5. Self-regulation of the legal profession relies upon the cooperation and participation of lawyers in the self-regulatory process. When a lawyer knowingly and intentionally submits false evidence in the disciplinary process, as Anderson did here, it impedes and undermines the system of self-regulation.

6. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based upon the foregoing Findings of Fact, Conclusions of Law, and additional Findings Regarding Discipline, and upon consideration of the factors set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(w), the hearing panel hereby enters the following additional

BTB

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes that the following factors are applicable in this matter:

a. Defendant's dishonest or selfish motive;

b. Defendant's indifference to making restitution;

c. Defendant's pattern of misconduct;

d. Defendant's multiple offenses;

e. Defendant's bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency; and

f. Defendant's submission of false evidence, false statements, or other deceptive practices during the disciplinary process.

2. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes Defendant has engaged in the following conduct that compels consideration of and warrants disbarment of Defendant's license:

a. Acts of dishonesty, misrepresentation, deceit, or fabrication;

b. Misappropriation or conversion of assets entrusted by clients to Defendant to which Defendant was not entitled; and

c. Commission of a felony.

3. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant disbarment or suspension of Defendant's license:

a. Defendant's intent to commit acts where the harm or potential harm was foreseeable;

b. Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;

c. Defendant's actions had a potential negative impact on his clients' and the public's perception of the legal profession;

d. Negative impact of Defendant's actions on the administration of justice;

e. Impairment of the client's ability to achieve the goals of the representation; and

BTB

f. Acts of dishonesty, misrepresentation, deceit, or fabrication.

4. Defendant's neglect, failure to communicate, failure to resolve the matters for which he was retained, and misappropriation of entrusted client funds caused significant harm to his clients.

5. Defendant's conduct caused significant harm to the public and to the administration of justice by unnecessarily delaying resolution of his clients' cases. Justice is achieved when all matters are timely pursued and resolved; justice is impeded by attorneys who knowingly abandon their clients and their duties as an attorney, leaving their clients' cases and their clients' interests in an unnecessarily uncertain status such as that created by Defendant.

6. Defendant's habitual neglect of his clients' matters has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows his disregard for his duties as an attorney. Defendant's commission of criminal acts reflecting adversely on his honesty, trustworthiness or fitness as a lawyer also caused significant potential harm to the profession in that criminal conduct by attorneys tends to bring the legal profession into disrepute. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.

7. Defendant caused significant potential harm to the profession in that Defendant's submission of false information in response to inquiries from the State Bar demonstrates a refusal to participate in the self-regulation process. Such conduct interferes with the State Bar's ability to regulate its members and undermines the profession's privilege to remain self-regulating.

8. The hearing panel has considered all other forms of discipline available and concludes that any sanction less than disbarment would fail to acknowledge the seriousness of the offenses committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar. The hearing panel further concludes that any sanction less than disbarment would not adequately protect clients, the public, the administration of justice, and the profession.

9. Due to the nature and extent of Defendant's conduct, the significant actual harm and potential harm caused by Defendant's conduct, and in the interest of protecting clients, the public, the administration of justice and the profession, this panel concludes that disbarment is the only discipline that will adequately protect clients, the public, the administration of justice, and the profession from future transgressions by Defendant.

Based upon the foregoing Findings of Fact, Conclusions of Law, and the additional Findings and Conclusions of Law Regarding Discipline, the hearing panel enters the following

BTB

ORDER OF DISCIPLINE

1. Defendant, Sir-Christopher J. Anderson, is hereby DISBARRED from the practice of law.

2. Defendant shall surrender his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this Order upon Defendant.

3. Defendant shall pay the costs and administrative fees of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay these costs and fees within 30 days of service upon him of the statement of costs and fees by the Secretary.

4. Defendant shall comply with all provisions of 27 N.C. Admin. Code 1B § .0124 of the North Carolina State Bar Discipline and Disability Rules.

5. Defendant shall provide the following to the State Bar within thirty days of the effective date of this Order:

a. Current contact information for all clients who have or should have funds in Defendant's accounts. Defendant shall cooperate with the State Bar to account for and disburse all client funds as appropriate; and

b. An address and telephone number at which clients seeking return of their files can communicate with Defendant and obtain such files.

6. Defendant shall promptly return client files in his possession, custody, or control to clients upon request, within five days of receipt of such request. Defendant will be deemed to have received any such request three days after the date such request is sent to Defendant if the request is sent to the address Defendant provided to the State Bar pursuant to this Order.

All three members of the Panel agree and concur in this decision.

Signed by the Chair, with the consent of the other hearing panel members, this the 2d day of June, 2015.

Beverly T. Beal

Beverly T. Beal, Chair
Disciplinary Hearing Panel

BTB