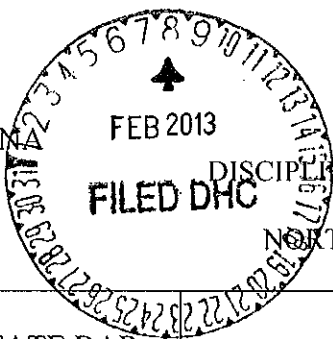


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 12 DHC 35

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MELISSA A. GOLDSMITH, Attorney,

Defendant

ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, and members Joshua W. Willey, Jr. and Scott A. Sutton pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Plaintiff was represented by Jennifer A. Porter. Defendant, Melissa A. Goldsmith (“Goldsmith”) did not appear despite prior notice and communication and was not represented.

Subsequent to Defendant filing her Answer in this matter, the Hearing Panel considered and granted the State Bar’s Motion for Judgment on the Pleadings and entered Findings of Fact and Conclusions of Law. The Findings of Fact and Conclusions of Law were filed on January 4, 2013. Those Findings of Fact and Conclusions of Law are hereby incorporated herein and set out below.

FINDINGS OF FACT

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, Melissa A. Goldsmith (“Goldsmith”), was admitted to the North Carolina State Bar in 2004, 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.

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

4. As part of her practice, Goldsmith acted as closing attorney in real estate transactions.

5. Goldsmith failed to timely complete final title opinions and submit title insurance premiums in several real estate closings, including in the following closings, identified by file number, property address and settlement date:

- a. Matheson-B05 / 3 Still Meadow Drive, Pisgah Forest – December 9, 2005
- b. 85B294 / Lot 51, La Porte Acres, Black Mountain Road, Cullowhee – May 8, 2006
- c. BCLD-SCHNEIDER / Lot 71, High Top Mountain, Whittier – August 30, 2006
- d. 07-113BS / Lot 48, La Porte Acres, Black Mountain Road, Cullowhee – February 9, 2007
- e. 07-115B / 3 Signal Ridge, Lot 16 Beechwood Subdivision, Sylva – March 30, 2007
- f. 07-116BS / Lot 17, Black Mountain Road, Cullowhee – April 4, 2007
- g. 07-117BS / Lot 77, Black Rock Creek, Jackson County – April 20, 2007
- h. 07-118BS / Lot 73, Black Rock Creek, Jackson County – April 30, 2007
- i. 07-119BS / Lot 20, Black Rock Creek, Jackson County – May 7, 2007
- j. 07-120BS / Lot 21, Black Rock Creek, Jackson County – May 7, 2007
- k. 07-124BS / Lot 5, Black Rock Creek, Jackson County – May 25, 2007
- l. 07-126BS / Lot 78A, Black Rock Creek, Jackson County – May 25, 2007
- m. 07-125BS / Lot 78B, Black Rock Creek, Jackson County – May 25, 2007
- n. 07-126S / Lot 33, Toy Cove, Sylva, Jackson County – June 5, 2007
- o. 07-131B / Lot 3, Renegade Trail, Whittier – July 27, 2007

- p. 07-132B / 0 Squirrells Nest Trail, Whittier – August 10, 2007
- q. 07-133B / 2.29 acres off Fred Sutton Road, Whittier – August 10, 2007
- r. 07-136B / 17.11 acres off Highway 19/23, Canton – October 9, 2007
- s. 07-137BS / Lot 47, Section G, Indian Trail Development, Whittier – November 30, 2007
- t. 07-139BS / 3 tracts, 16.88 acres off Hornet Drive, Whittier – January 2, 2008
- u. 08-142BS / Lot 17, La Porte Acres, Black Mountain Road, Cullowhee – April 28, 2008
- v. 08-143BS / 37 Big Trout Road, Webster – May 23 2008
- w. 08-146B / 334 Teigue Cove Road, Whittier – August 13, 2008
- x. 08-149BS / 0 Fred Sutton Road, Lot #3 Wood Ridge Estates, Whittier – September 12, 2008
- y. 08-151Ref / 976 Hornet Drive, Whittier – October 27, 2008
- z. 08-152BBS / Lot 3, River Ridge Estates, Whittier – November 3, 2008
- aa. 08-156BS / Lot 2 River Ridge, Glenville – December 19, 2008
- bb. 09-157B-CON / 29 Rainbow Trout Drive, Tuckasegee – May 7, 2009

6. The buyer company in transactions identified by file numbers 07-119BS, 07-120BS, and 07-124BS sent Goldsmith a written request for information about the outstanding owner title insurance policies in these closings. Goldsmith failed to respond to this client inquiry.

7. Goldsmith failed to identify the client for which she was disbursing funds on the applicable checks, including as follows:

- a. Check #1001 to Jackson County Register of Deeds for \$413.00
- b. Check #1005 to Stanberry Insurance Agency for \$544.62
- c. Check #1014 to Jackson County Register of Deeds for \$29.00
- d. Check #1012 to Community First Mortgage Company for \$500.00
- e. Check #1015 to Goldsmith for \$312.00

- f. Check #1024 to Wells Fargo Home Mortgage for \$113,796.94
- g. Check #1025 to Wachovia Bank for \$20,225.44
- h. Check #1032 to Blackacre Title Agency, LLC for \$239.00
- i. Check #1034 to Goldsmith for \$800.00
- j. Check #1035 to Blackacre Title Agency, LLC for \$150.00
- k. Check#1041 to Blackacre Title Agency, LLC for \$387.50
- l. Check #1044 to United Community Bank for \$73,838.91
- m. Check #1053 to Home Buyers Warranty for \$480.00
- n. Check #1054 to Goldsmith for \$575.00
- o. Check #1059 to Blackacre Title Agency, LLC for \$50.00
- p. Check #1066 to Jackson County Register of Deeds for \$112.00
- q. Check #1068 to Goldsmith for \$498.00
- r. Check #1083 to Jackson County Tax Collector
- s. Check #1085 to Blackacre Title Agency, LLC for \$75.00
- t. Check #1117 to Cherohala Termite & Pest Control for \$70.00
- u. Check #1120 to Jackson County Register of Deeds for \$43.00
- v. Check #1124 to Blackacre Title Agency, LLC for \$227.50
- w. Check #1127 to Blackacre Title Agency, LLC for \$75.00
- x. Check #1134 to Wells Fargo Home Mortgage for \$149,964.70
- y. Check #1164 to Jackson County Tax Collector for \$1,193.18
- z. Check #1177 to Prestige Appraisal for \$50.00
- aa. Check #1193 to Jackson County Tax Collector for \$659.25
- bb. Check #1218 to Jackson County Tax Collector for \$77.04
- cc. Check #1225 to Jackson County Tax Collector for \$2,026.25
- dd. Check #1231 to Haywood County Tax Collector for \$1,515.45

- ee. Check #1232 to Town of Canton for \$598.25
- ff. Check #1235 to Blackacre Title Agency, LLC for \$350.00
- gg. Check #1239 to Blackacre Title Agency, LLC for \$247.00
- hh. Check #1256 to Jackson County Tax Collector for \$728.00
- ii. Check #1297 to Mountain Appraisal Service for \$350.00
- jj. Check #1298 to Jackson County Tax Collector for \$54.29

8. On or about October 17, 2005, Goldsmith cashed, or allowed to be cashed; a counter check made out to cash from her trust account in the amount of \$193.00. There is no indication on the counter check of the client whose funds were being disbursed.

9. Goldsmith overdisbursed to certain payees in certain closings, which either used other entrusted funds in the account for those clients or left insufficient funds for those clients in her trust account for remaining items to be paid for those closings, including as follows:

- a. Henson, \$12.00 overdisbursed for wire fee
- b. Green, \$200.00 overdisbursed in attorney's fees
- c. Gates/Ballott, \$15.00 overdisbursed, \$12.00 for wire fee and \$3.00 to Jackson County Register of Deeds
- d. Flaxman-Rinehart/Bergerman, \$78.17 overdisbursed to Jackson County Tax Collector and for prior mortgage payoff
- e. Kirmse/Morse, \$1.00 overdisbursed, leaving insufficient funds to pay the outstanding title insurance premium
- f. 07-116BS, \$3.00 overdisbursed for attorney fee/wire fee, leaving insufficient funds to pay the outstanding title insurance premium
- g. 07-119 and 120BS (combined), \$3.00 overdisbursed for attorney fee/wire fee, leaving insufficient funds to pay the outstanding title insurance premiums
- h. 07-124, 125, and 126BS (combined), \$106.72 overdisbursed for prior mortgage payoffs, leaving insufficient funds to pay the outstanding title insurance premium
- i. 07-139BS, \$71.52 overdisbursed for prior mortgage payoff, leaving insufficient funds to pay the outstanding title insurance premium

- j. 08-143BS, \$26.00 overdisbursed for wire fee and to Register of Deeds, leaving insufficient funds to pay the outstanding title insurance premium
- k. 08-146B, \$92.62 overdisbursed for road fund, leaving insufficient funds to pay the outstanding title insurance premium
- l. 08-147B, \$27.00 overdisbursed for wire fee and to Register of Deeds
- m. 08-149BS, \$25.00 overdisbursed to client, leaving insufficient funds to pay the outstanding title insurance premium
- n. 08-150B, \$24.00 overdisbursed in wire fees
- o. 08-151, 08-152BS, 08-153BS (combined), overdisbursed \$39.00 in wire fees, leaving insufficient funds to pay the outstanding title insurance premiums

10. Goldsmith disbursed \$2,000.00 from her trust account in the client matter of Morse/McFadden but she had only deposited \$1,000.00 into her trust account for that matter.

11. Goldsmith was served with a letter of notice from the North Carolina State Bar on February 2, 2011. Goldsmith was required to respond to the letter of notice within 15 days of receipt. Goldsmith did not respond.

12. Goldsmith subsequently contacted staff counsel for the State Bar in June 2011. Goldsmith was directed to produce required bank records by June 24, 2011 and her written response by July 8, 2011. Goldsmith failed to comply with these deadlines.

13. On September 19, 2011, the Wake County Superior Court entered an injunction prohibiting Goldsmith from handling entrusted funds. The injunction order also required Goldsmith to produce records as requested by the State Bar.

14. The State Bar requested that Goldsmith produce records relating to clients for whom Goldsmith handled entrusted funds.

15. Goldsmith failed to comply with the court's order and failed to produce the records. Goldsmith did not produce the required records until held in contempt by the court.

16. After Goldsmith was held in contempt of court, Goldsmith produced the required records and responded to requests for information.

17. After the State Bar completed its audit, there remained the following two disbursements for which the State Bar could not ascertain from which client's funds the disbursements were being made:

- a. Check #1035 to Blackacre Title Agency, LLC for \$150.00
- b. Counter check made payable to cash in the amount of \$193.00

18. The State Bar's audit showed that as of the end date of the audit period, which was July 25, 2011, Goldsmith had collected more for outstanding title insurance premiums than she had left in the trust account, to wit: she had collected \$4,169.80 for title insurance premiums but her trust account balance was only \$3,427.57.

19. The deficiency in Goldsmith's trust account balance resulted from her overdisbursement in client matters, bank and wire charges being deducted from the trust account, and the counter check debit.

Based upon the foregoing Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.
2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:
 - (a) By failing to promptly complete final opinions of title and disburse title insurance premiums, Goldsmith failed to act with reasonable diligence and promptness in representing her clients in violation of Rule 1.3 and failed to promptly disburse entrusted funds in violation of Rule 1.15-2(m);
 - (b) By disbursing more funds for clients than she had in her trust account for those clients, Respondent failed to properly hold and maintain entrusted funds in violation of Rule 1.15-2(a) and used entrusted funds for the benefit of herself or third persons other than the legal or beneficial owners of those funds in violation of Rule 1.15-2(j);
 - (c) By withdrawing, or allowing another to withdraw, funds from her trust account by a counter check made payable to cash, an item was drawn on Respondent's trust account made payable to cash in violation of Rule 1.15-2(i);
 - (d) By failing to include adequate identifying information on checks written from her trust account, Respondent failed to show on her checks the client balance against which whose items were being drawn in violation of Rule 1.15-3(b)(2);
 - (e) By failing to respond to the State Bar's letter of notice and requests for documents, Respondent knowingly failed to respond to a lawful demand

for information from a disciplinary authority in violation of Rule 8.1(b);
and

- (f) By failing to produce records as required by the injunction entered by the Wake County Superior Court until after she was held in contempt, Respondent engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

Based upon the foregoing Findings of Fact and Conclusions of Law and the evidence presented at hearing, the Hearing Panel finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT REGARDING DISCIPLINE

1. Goldsmith's failure to respond to the State Bar's letter of notice and request for documents impeded and delayed the State Bar's audit of her trust account, interfering with the State Bar's efforts to ensure appropriate handling of entrusted funds.

2. Goldsmith's failure to respond to the State Bar and the inadequate client identification on the bank records the State Bar obtained from the bank necessitated that the State Bar obtain an injunction from the Wake County Superior Court prohibiting Goldsmith from handling entrusted funds, in order to protect the public.

3. Goldsmith's failure to comply with the injunction order's provision that she produce records as requested by the State Bar under the order required the State Bar to have her held in contempt in order to gain her compliance.

4. Goldsmith's failure to respond to the State Bar and produce the requested records caused expenditures of disciplinary and judicial time and resources that could have been avoided, and undermined the privilege of lawyers in this State to remain self-regulating.

5. Goldsmith's failure to timely complete final title opinions and disburse premiums created the potential for significant harm should a title claim arise after the expiration of the title commitment, and interfered with her clients' goal of obtaining title insurance.

6. Although there is no evidence Goldsmith intentionally overdisbursed funds to herself or to others, Goldsmith's failure to follow proper trust account management and record-keeping procedures resulted in mishandling of entrusted funds and in overdisbursements.

7. Goldsmith's overdisbursements, although unintentional, left her with insufficient funds for clients for whom she has not yet obtained title insurance, interfering with those clients' goal of obtaining title insurance.

8. After examination of Goldsmith's client files, the State Bar ultimately found that the attorney fee disbursements Goldsmith made by checks that failed to contain the client's name listed in paragraph 7 of the initial Findings of Fact section above were appropriate fee disbursements. Goldsmith's failure to include the client's name on the fee disbursement check delayed proper identification by the State Bar, however.

9. Goldsmith's failure to respond to the State Bar resulted in potential significant harm to the legal profession. The legal profession is entrusted with the privilege of self-regulation. This self-regulation requires participation in the process by attorneys. When attorneys fail to participate, they jeopardize the profession's ability to remain self-regulating and they obstruct the State Bar's efforts to fulfill its statutory mandate.

10. Goldsmith has no prior discipline.

11. Goldsmith has indicated that she experienced personal or emotional problems during the time period at issue.

12. After being held in contempt by the Wake County Superior Court, Goldsmith has been cooperative with the State Bar's investigation of the conduct described herein.

13. 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 on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension of Defendant's license:

- (a) Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- (b) Negative impact of Defendant's actions on client's or public's perception of the profession;
- (c) Negative impact of Defendant's actions on the administration of justice;

- (d) Impairment of the client's ability to achieve the goals of the representation;
- (e) Effect, and potential effect, of Defendant's conduct on third parties; and
- (f) Multiple instances of failure to participate in the legal profession's self-regulation process.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes no factors are present in this instance that would warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (a) Absences of prior disciplinary offenses;
- (b) Lack of timely good faith efforts to make restitution or to rectify consequences of misconduct;
- (c) Indifference to making restitution;
- (d) Defendant engaged in multiple offenses;
- (e) Defendant engaged in a pattern of misconduct;
- (f) Effect of personal or emotional problems on the conduct in question;
- (g) Defendant's lack of interim rehabilitation;
- (h) Defendant's full and free disclosure to the Hearing Panel but not a cooperative attitude toward the proceedings;
- (i) Defendant's remorse; and
- (j) Defendant's lack of experience in the practice of law.

4. Defendant's failure to properly maintain, manage, and handle entrusted funds betrays a vital trust clients and the public place in attorneys and the legal profession.

5. Defendant's conduct, if continued or tolerated by the Bar, poses potential significant harm to future clients and the profession.

6. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient discipline because of the gravity of the potential harm to the clients. The Panel further concludes that such discipline would fail to acknowledge the seriousness of the violations committed by Defendant and send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State.

7. This Hearing Panel has considered lesser alternatives and concludes that a suspension is necessary to adequately protect the public from future misconduct by Defendant.

8. For these reasons, this Hearing Panel finds that an order imposing discipline short of suspension of Defendant's law license would not be appropriate.

Based upon the foregoing Findings of Fact and Conclusions of Law and the Findings of Fact and Conclusions regarding discipline, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Melissa A. Goldsmith, is hereby suspended from the practice of law for five years, effective 30 days from service of this Order upon Goldsmith.

2. Defendant shall submit her 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 comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this Order, certifying she has complied with the wind down rule.

4. Within 15 days of the effective date of this Order Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files, and Defendant shall promptly return all files to her clients upon request.

5. Defendant shall pay the administrative fees and costs of this disciplinary proceeding within 30 days of service of the statement of fees and costs upon her.

6. After serving two years of the active suspension of her license, Defendant may be eligible to apply to have the remainder of the suspension stayed if she meets the conditions set out below. Defendant must prove compliance with these conditions by clear, cogent, and convincing evidence.

- (a) That she properly wound down her law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the State Bar Discipline & Disability Rules;
- (b) That she paid the fees and costs of this proceeding within 30 days of service of the statement of fees and costs upon her;
- (c) That within 10 days of the effective date of this Order Defendant took possession of her client files from the State Bar. Defendant shall bear sole responsibility for any associated costs;
- (d) That within 15 days of the effective date of this Order Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant and obtain such files;
- (e) That Defendant promptly returned client files to her clients upon request, within 5 days of receipt of such request. Defendant will be deemed to have received any such request 3 days after the date such request is sent to Defendant if the request is sent to the address Defendant provided pursuant to the preceding paragraph;
- (f) That within 30 days of the effective date of this Order Defendant notified all owners and lenders for whom she collected premiums for title insurance policies but for whom she failed to obtain title insurance that she has not obtained title insurance policies for them, so that they can take action as appropriate to protect their interests if they so choose;
- (g) That Defendant was evaluated within 30 days of the effective date of this Order by a psychiatrist or psychologist approved in advance by the Office of Counsel of the North Carolina State Bar;
- (h) That for the two years immediately preceding her petition for stay, Defendant followed and complied with any treatment recommendations of the psychiatrist or psychologist;
- (i) That Defendant attached to her petition releases or authorizations allowing her psychiatrist or psychologist to discuss her evaluation and treatment with, and to release any corresponding records to, the Office of Counsel of the State Bar. Defendant shall provide any additional releases or authorizations that may be necessary upon request by the Office of Counsel;
- (j) That Defendant submitted certified funds to the State Bar with her petition in the amount necessary to reimburse her trust account to remedy the deficit she created;

- (k) That Defendant took all necessary action to assist and cause issuance of the outstanding title policies and shall have completed such no later than 1 year from the effective date of this Order. If any title policy for which she had collected but not disbursed a premium is no longer needed, Defendant will have submitted documentation from the intended insured verifying the policy is no longer needed;
- (l) That Defendant answered any inquiries and provided any assistance necessary for the State Bar to obtain a court order disbursing the funds in her trust account;
- (m) That Defendant has kept the North Carolina State Bar Membership Department advised of her current physical home address;
- (n) That Defendant has responded to all communications from the North Carolina State Bar received after the effective date of this Order within 30 days of receipt or by the deadline stated in the communication, whichever is sooner;
- (o) That Defendant paid all outstanding membership fees, Client Security Fund assessments and fees or costs assessed by the DHC or the State Bar and complied with and satisfied any outstanding continuing legal education requirements imposed by the State Bar; and
- (p) That Defendant has not violated the Rules of Professional Conduct or the laws of the United States or any state.

7. The procedures of 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0125(b) shall govern Defendant's petition for a stay of the remainder of the suspension of her law license.

8. If the State Bar does not file an objection to Defendant's petition for a stay of the remainder of her suspension as described in 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0125(b)(6), then pursuant to Section .0125(b)(5) the Secretary shall put into effect the stay of the remaining period of suspension provided for in this Order by reinstating Defendant to active status subject to the terms, conditions, and requirements of this Order of Discipline, with Defendant's active status contingent upon continued compliance with the terms of this Order. Such stay will continue in force only as long as Defendant continues to comply with all conditions in this Order, including the conditions set out in paragraph 10 below. The Disciplinary Hearing Commission will retain jurisdiction of the matter until all conditions of the Order are satisfied, under 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0114(x).

9. If the State Bar files an objection to Defendant's petition for a stay of the remainder of her suspension as described in 27 N.C. Admin. Code Chapter 1, Subchapter

B, Section .0125(b)(6), then pursuant to Section .0125(b)(7) the Secretary shall refer the matter to the Chair of the Disciplinary Hearing Commission. The Chair of the Disciplinary Hearing Commission shall appoint a hearing panel and set the matter for hearing as described in Section .0125(b)(7). The Chair of the Disciplinary Hearing Commission shall appoint as members of the hearing panel the members entering this Order if practicable.

10. If Defendant is granted a stay of her suspension, the stay of her suspension will remain in effect only if Goldsmith complies, and continues to comply, with the following conditions:

- a. Engage in ongoing treatment by a mental health professional who specializes in management of stress by professionals, to ensure no personal or emotional problems, or other conditions pose any risk to clients or the public. The mental health provider shall provide quarterly reports to the State Bar confirming Defendant is following the recommendations of the provider. The mental health professional shall notify the State Bar if Defendant fails to follow the recommendations of the mental health provider. Defendant shall ensure these reports and notifications are made. Defendant will sign all necessary releases or documents to allow such reports and notifications, to allow the provider to provide documents from Defendant's treatment to the State Bar, and to allow the mental health provider to discuss Defendant's participation and treatment with the Office of Counsel of the State Bar, and shall not revoke the release during the period of stay;
- b. Each month Goldsmith shall provide the State Bar with the three-way reconciliation of her trust account described in the State Bar Lawyer's Trust Account Handbook on pages 35-40 (reference is to the edition last revised in May 2011). Goldsmith shall provide the three-way reconciliation report, client ledgers for all clients with funds in her trust account during that month, ledger for any personal funds maintained in the trust account for bank or credit card fees, her trust account ledger, and the bank statement, cancelled checks, and deposit slips for each month. These documents are due on the 15th day of the following month – for example, the three-way reconciliation for the month of January is due on February 15;
- c. Goldsmith shall answer any inquiries and provide any assistance necessary for the State Bar to obtain a court order disbursing the funds in her trust account;


- d. Goldsmith shall not violate any state or federal laws or any provisions of the Rules of Professional Conduct during the period of the stayed suspension;
- e. Goldsmith shall respond to all State Bar requests for information as required by Rule 8.1(b) of the Rules of Professional Conduct by the earlier of the deadline stated in the communication or within 30 days of receipt;
- f. Goldsmith shall timely comply with all State Bar membership and Continuing Legal Education requirements
- g. Goldsmith shall complete annually at least 3 hours of CLE focused on trust account management as part of her required CLE hours; and
- h. Goldsmith shall keep the North Carolina State Bar membership department advised of her current home and business street (not P.O. Box) addresses and telephone numbers.

11. If an order staying any period of this suspension is entered and the Defendant fails to comply with any one or more of the conditions set out in this Order of Discipline, then the stay of the suspension of her law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

12. If Defendant does not seek a stay of the active portion of the suspension of her law license or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must comply with the conditions set out above in paragraph 6 of this Order of Discipline section as well as the requirements of 27 N.C. Admin. Code 1B, § .0125(b) in order to be reinstated from this suspension to active status.

13. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of any stayed suspension.

8th Signed by the Chair with the consent of the other Hearing Panel members, this the day of February, 2013.



Fred M. Morelock
Chair, Disciplinary Hearing Panel