

STATE OF NORTH CAROLINA

WAKE COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

2015 JUL 27 AM 10:29 13 CVS 10889

THE NORTH CAROLINA STATE BAR, ~~WAKE COUNTY, C.S.C.~~

BY

Petitioner

v.

DONALD H. BUMGARDNER, Attorney,

Respondent

CONSENT ORDER OF
DISBARMENT

THIS MATTER came before the undersigned Judge of the Superior Court of Wake County upon the tender of surrender of the law license of Donald H. Bumgardner. Petitioner, the North Carolina State Bar, was represented by Leonor Bailey Hodge. Jim R. Funderburk represented Respondent, Donald H. Bumgardner.

Based upon the Affidavit of Surrender of Law License submitted to the Court by Donald H. Bumgardner and the consent of the parties, the court makes the following:

FINDINGS OF FACT

1. Bumgardner was licensed to practice law on 14 August 1970.
2. During all periods relevant hereto, Bumgardner was actively engaged in the practice of law in Gastonia, Gaston County, North Carolina.
3. On several occasions beginning as early as 2010, Bumgardner failed to deposit clients' settlement checks into a trust account and instead negotiated these checks at local check cashing centers.
4. Bumgardner continued to accept entrusted funds on behalf of clients and to negotiate their settlement checks at check cashing centers even after Bumgardner was enjoined by this Court from handling entrusted funds.
5. Bumgardner failed to provide an accounting to clients on whose behalf he received settlement proceeds.
6. Bumgardner made several disbursements to himself from the trust account without identifying on the face of the check the client balance from which the disbursement was drawn.
7. On 12 August 2013, after being contacted by the State Bar, Bumgardner closed his trust account by withdrawing the remaining \$2,500 from the trust account. Bumgardner misappropriated these funds and misappropriated other client funds

in excess of \$1 million between 2010 and December 2014. Bumgardner also failed to pay the medical liens of several personal injury clients.

CONCLUSIONS OF LAW

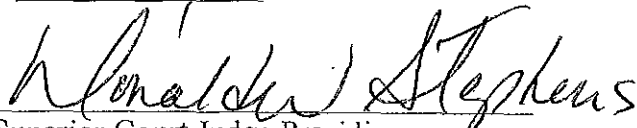
1. This court has jurisdiction over the Respondent and over the subject matter of this proceeding.
2. The courts of this State have the inherent authority to take disciplinary action against attorneys licensed to practice law in North Carolina.
3. By failing to deposit client settlement checks into a trust account and instead negotiating them at local check cashing centers, Respondent failed to deposit entrusted property into a trust account and maintain it according to the Rules of Professional Conduct in violation of Rule of Professional Conduct 1.15-2(a)(b).
4. By continuing to handle entrusted client funds after the Court entered the Consent Order of Preliminary Injunction, Respondent engaged in conduct prejudicial to the administration of justice in violation of Rule of Professional Conduct 8.4(d).
5. By failing to provide accountings to clients for whom Respondent received settlement proceeds, Respondent failed to communicate with the client in violation of Rule of Professional Conduct 1.4(a)(3) and (b) and failed to account for trust funds in violation of Rule of Professional Conduct 1.15-3(e).
6. By misappropriating entrusted funds in excess of \$1 million, Respondent used entrusted property for the benefit of one other than the legal or beneficial owner in violation Rule of Professional Conduct 1.15-2(j), committed a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule of Professional Conduct 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule of Professional Conduct 8.4(c).
7. By failing to pay the medical liens of several personal injury clients, Respondent neglected his representation of clients in violation of Rule of Professional Conduct 1.3.
8. Bumgardner's misconduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2).
9. Bumgardner has engaged in professional misconduct warranting disbarment.

ORDER

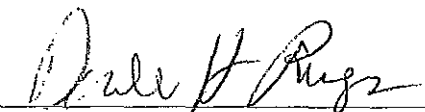
1. The surrender of the license of Donald H. Bumgardner is hereby accepted.

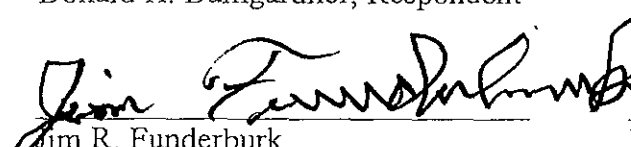
2. Donald H. Bumgardner is DISBARRED from the practice of law in North Carolina effective upon entry of this Order.
3. Bumgardner shall wind-down his law practice within 30 days of entry of this order in accordance with 27 N.C. Admin. Code 1B §.0117(e).
4. Bumgardner shall comply with the provisions of 27 N.C. Admin. Code 1B §.0124 and shall surrender his law license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by 27 N.C. Admin. Code 1B § .0124.
5. Within 15 days of the effective date of this Order, Bumgardner shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Bumgardner and obtain such files.
6. Bumgardner shall promptly return client files to clients upon request, within 5 days of receipt of such request. Bumgardner will be deemed to have received any such request 3 days after the date such request is sent to Bumgardner if the request is sent to the address Bumgardner provided the State Bar pursuant to the preceding paragraph.
7. Bumgardner shall not petition for reinstatement of his law license until the expiration of at least five years from the date of entry of this order.
8. Bumgardner's law license shall not be reinstated until he has demonstrated to the satisfaction of the Disciplinary Hearing Commission and the Council of the North Carolina State Bar that he has complied with 27 N.C. Admin. Code 1B § .0125.
9. The costs of this action and administrative fees assessed by the State Bar are taxed against Donald H. Bumgardner.

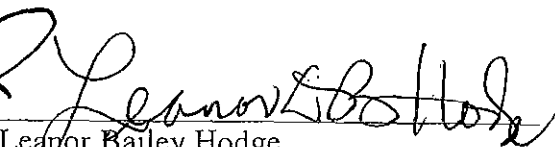
Done and Ordered this 27 day of July, 2015.


Superior Court Judge Presiding

Seen and consented to:


Donald H. Bumgardner, Respondent


Jim R. Funderburk
Counsel for Respondent


Lleanor Bailey Hodge
Deputy Counsel, North Carolina State Bar
Counsel for Petitioner

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v.

BY

DONALD H. BUMGARDNER, Attorney,

Respondent

AFFIDAVIT OF SURRENDER
OF LAW LICENSE

Donald H. Bumgardner, being first duly sworn, deposes and says:

1. I desire to resign and hereby tender my license to practice law in North Carolina pursuant to the provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0117 of the N.C. State Bar Discipline & Disability Rules.
2. My resignation is freely and voluntarily rendered. It is not the result of coercion or duress. I am fully aware of the implications of submitting my resignation. I affirm that I have had the opportunity to consult an attorney before filing this Affidavit.
3. I am aware that there is a pending investigation against me regarding the following allegations:
 - a. On several occasions beginning as early as 2010, I failed to deposit clients' settlement checks into a trust account and instead negotiated these checks at local check cashing centers. I continued to accept entrusted funds on behalf of clients and to negotiate their settlement checks at check cashing centers even after I was enjoined by this Court from handling entrusted funds.
 - b. I failed to provide an accounting to clients on whose behalf I received settlement proceeds.
 - c. On 12 August 2013, after being contacted by the State Bar, I closed my trust account by withdrawing the remaining \$2,500 from the trust account. I did not identify a client on this and other disbursements I made to myself from the trust account. I misappropriated the \$2,500 I withdrew on August 12th and misappropriated other client funds in excess of \$1 million between 2010 and December 2014. I also failed to pay the medical liens of several personal injury clients.

Donald H. Bumgardner
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4. I acknowledge that the material facts upon which the investigation is predicated are true.

5. I am submitting my resignation because I know that if disciplinary charges were predicated upon the misconduct under investigation, I could not successfully defend against them.

This the 15 day of July, 2015.

Donald H. Bumgardner
Donald H. Bumgardner

I, Tracey P. Teno, Notary Public of the County of Gaston, State of North Carolina, certify that Donald H. Bumgardner personally appeared before me this day, was sworn, and acknowledged the due execution of the foregoing Affidavit.

Sworn to and subscribed before me

This the 15 day of July, 2015.

Tracey P. Teno
Notary Public

My Commission Expires: 9-25-16

