

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18 CVS 001669

THE NORTH CAROLINA STATE BAR,  
Petitioner  
v.  
ROBERT F. GARNER, Attorney,  
Respondent

2018 FEB 23 A 10:16  
WAKE COUNTY, C.S.C.  
BY: mm 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 Robert F. Garner. Petitioner, the North Carolina State Bar, was represented by Margaret Cloutier. Respondent appeared *pro se*.

Based upon the Affidavit of Surrender of Law License submitted to the Court by Robert F. Garner, the court makes the following:

#### FINDINGS OF FACT

1. Garner was licensed to practice law on August 19, 1978.
2. During all periods relevant hereto, Garner was actively engaged in the practice of law in Greensboro, Guilford County, North Carolina.
3. Garner misappropriated at least \$9,470.70 of fiduciary funds by allowing the North Carolina Department of Revenue to garnish his trust account at a time when he had no funds to which he was entitled in the account. In addition, Garner failed to properly reconcile his trust account, label disbursements with the client for whom the disbursements were made, or keep accurate client ledgers.

Based upon the foregoing Findings of Fact, the Court makes the following:

#### CONCLUSIONS OF LAW

1. This court has jurisdiction over Garner 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 misappropriating fiduciary funds and failing to properly reconcile his trust account, label disbursements with the client for whom the disbursements were made, or keep accurate client ledgers, Garner used entrusted property for the benefit of one other than the legal or beneficial owner in violation of Rule of Professional Conduct 1.15-2(j), engaged in criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in violation of Rule of Professional Conduct 8.4(b), engaged in conduct involving dishonesty,

fraud, deceit or misrepresentation in violation of Rule of Professional Conduct 8.4(c), and Rules 1.15-3(b) and (d) governing the maintenance of a general trust account.

4. Garner's misconduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2).

5. Garner has engaged in professional misconduct warranting disbarment.

IT IS NOW, THEREFORE, ORDERED:

1. The surrender of the license of Robert F. Garner is hereby accepted.

2. Robert F. Garner is DISBARRED from the practice of law in North Carolina effective upon entry of this Order.

3. Garner shall comply with the provisions of 27 N.C. Admin. Code 1B §.0128 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 Rule .0128.

4. Within 15 days of the effective date of this Order Garner shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Garner and obtain such files.

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

6. Garner 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.

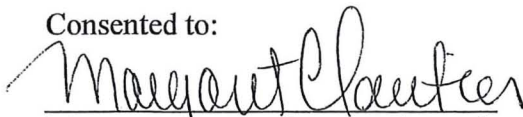
7. Garner's law license shall not be reinstated until he has demonstrated to the satisfaction of the Disciplinary Hearing Commission and the Council of the North Carolina State Bar that he has complied with 27 N.C. Admin. Code 1B §§ .0128 and .0129(a).

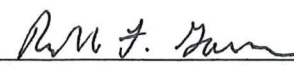
8. The costs of this action are taxed against Robert F. Garner.

Done and Ordered this 22 day of February, 2018.

  
\_\_\_\_\_  
Superior Court Judge Presiding

Consented to:

  
\_\_\_\_\_  
Margaret Cloutier, Deputy Counsel  
Attorney for Plaintiff

  
\_\_\_\_\_  
Robert F. Garner, Defendant  
*Pro Se*

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WAKE COUNTY, C.S.C.

BY mm AFFIDAVIT OF  
SURRENDER OF LAW LICENSE

Robert F. Garner, being first duly sworn, deposes and says as follows:

1. I desire to surrender and hereby tender my license to practice law in North Carolina.
2. My surrender is freely and voluntarily rendered. It is not the result of coercion or duress. I am fully aware of the implication of submitting my surrender.
3. I am aware that there is a pending investigation by the State Bar regarding allegations that I misappropriated at least \$9,470.70 of fiduciary funds by allowing the North Carolina Department of Revenue to garnish my trust account at a time when I had no funds to which I was entitled in the account. In addition, I failed to properly reconcile my trust account, label disbursements with the client for whom the disbursements were made, or keep accurate client ledgers.
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 20 day of February, 2018.

Robert F. Garner  
Robert F. Garner

I, Jason Kennedy, Notary Public of the County of Guilford, State of North Carolina, certify that Robert F. Garner personally appeared before me this day and acknowledged the due execution of the foregoing Affidavit.

Sworn to and subscribed before me, this the 20 day of February, 2018.

Jason Kennedy  
Notary Public  
My Commission Expires: 7-15-19

