

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 08 CVS 06869

THE NORTH CAROLINA STATE BAR,
Petitioner
v.
MICHELLE T. SHEPHERD, Attorney,
Respondent

CONSENT ORDER
OF DISBARMENT

2008 JUN 12 PM 3:17
WAKE COUNTY, NC

FILED

THIS MATTER came before the undersigned Judge of the Superior Court of Wake County upon the tender of surrender of her law license by Michelle T. Shepherd.

Based upon the Affidavit of Surrender of Law License submitted to the Court by Respondent, Michelle T. Shepherd (hereinafter "Shepherd"), the Court makes the following:

FINDINGS OF FACT

1. Shepherd was admitted to the North Carolina State Bar in 1996 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.
2. During all of the periods relevant hereto, Shepherd was engaged in the practice of law in Jefferson, North Carolina.
3. Shepherd is aware that there is presently pending an investigation regarding allegations that she is guilty of misconduct by misappropriating client funds for her own use and for the benefit of other clients and by engaging in fraudulent transactions between her two client accounts, to wit: check kiting.
4. Shepherd desires to resign her license to practice law and has tendered her license to practice law in North Carolina.
5. Shepherd's resignation is freely and voluntarily rendered. It is not the result of coercion or duress. Shepherd is fully aware of the implication of submitting her resignation.
6. Shepherd acknowledges that the material facts upon which the investigation is predicated are true.

7. Shepherd has submitted her resignation because she knows that if disciplinary charges were predicated upon the misconduct under investigation, she could not successfully defend against them.

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

CONCLUSIONS OF LAW

1. By misappropriating client funds and engaging in check kiting with her trust accounts, Shepherd engaged in criminal acts that reflect adversely on her honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b) of the Revised Rules of Professional Conduct and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) of the Revised Rules of Professional Conduct.

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

3. The courts of this State have the inherent authority to take disciplinary action against attorneys licensed to practice law in North Carolina.

4. This Court has jurisdiction over the person of Michelle T. Shepherd and of the subject matter of this proceeding.

5. Shepherd has engaged in professional misconduct warranting disbarment.

IT IS NOW, THEREFORE, ORDERED:

1. Michelle T. Shepherd is DISBARRED from the practice of law in North Carolina.

2. Shepherd shall comply with the provisions of 27 N.C. Admin. Code, Chapter 1, Subchapter B, Section .0124 of the Rules and Regulations of the North Carolina State Bar and shall surrender her license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by § .0124. Shepherd shall have thirty (30) days from the date of the entry of this order to complete the requirements of § .0124.


3. Shepherd shall not petition for reinstatement of her law license until the expiration of at least five (5) years from the date of this order.

4. Shepherd's law license shall not be reinstated until she has demonstrated to the satisfaction of the Disciplinary Hearing Commission and the Council of the North

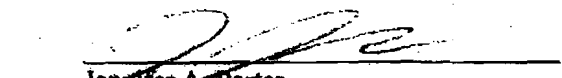
Carolina State Bar that she has complied with 27 N.C. Admin. Code Chapter 1,
Subchapter B, Section .0125.


5. The costs of this action are taxed against Shepherd.

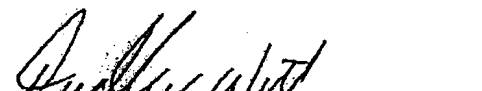
Done and Ordered this 12 day of June, 2008.


Superior Court Judge Presiding

CONSENT TO BY:


Jennifer A. Porter
Deputy Counsel, North Carolina State Bar
Attorney for Petitioner


Michelle T. Shepherd
Respondent


Dudley Witt
Attorney for Respondent

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Respondent

AFFIDAVIT OF SURRENDER OF
LAW LICENSE

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Michelle T. Shepherd., being first duly sworn, deposes and says as follows:

1. I desire to resign and hereby tender my license to practice law in North Carolina.
2. My resignation is freely and voluntarily rendered. It is not the result of coercion or duress. I am fully aware of the implication of submitting my resignation.
3. I am aware that there is presently pending an investigation regarding allegations that I am guilty of misconduct by misappropriating client funds and utilizing those funds for the benefit of myself and/or for the benefit of others without authorization to do so from the beneficial owners of the funds in an amount of at least \$3,397,805.18, including but not limited to the following:
 - a. I admit I failed to use funds in at least the amount of \$2,753,415.13 received into my trust accounts for real estate closings and intended to pay off prior liens against the properties and/or other obligations from the closings and misappropriated those funds for my own benefit or the benefit of others;
 - b. I admit that I misappropriated client funds for my own use and benefit, including but not limited to misappropriating \$50,000.00 of client funds on or about February 8, 2008 and \$5,000.00 of client funds on or about March 20, 2008; and
 - c. I admit I misappropriated client funds belonging to clients Johanna Eikeland, Sandra Lemly, and Timothy Fuller to the benefit of another client, Timothy Miller, in the amount of \$589,390.05.
4. I am aware that the presently pending investigation also includes allegations that I have engaged in the fraudulent conduct of check kiting with respect to transactions in my client trust accounts. I admit I wrote numerous checks from my trust account at First Charter Bank that were not supported by client funds or other funds in the account,

deposited those checks into my trust account at AF Bank, and before AF Bank could collect those funds from First Charter I wrote checks from my AF Bank trust account that were not supported by collected or client funds and deposited those checks into the First Charter trust account, thereby falsely inflating the apparent balances in the accounts and creating fictitious balances. I also did this with checks first written from the AF Bank account and deposited into the First Charter account.

5. I acknowledge that the material facts upon which the investigation is predicated are true.

6. 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 9th day of June, 2008.

Michelle T. Shepherd
Michelle T. Shepherd

I, Karen S. Simmons, Notary Public of the County of Swain, State of North Carolina, certify that Michelle T. Shepherd personally appeared before me this day, was sworn, attested that the foregoing Affidavit is true and accurate of her own personal knowledge, and executed the foregoing Affidavit.

This the 9th day of June, 2008.

Karen S. Simmons

Notary Public

My Commission Expires: 12-16-12

