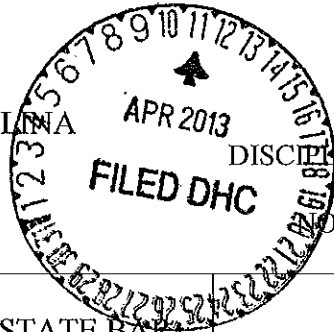


STATE OF NORTH CAROLINA

WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MICHAEL C. PARK, 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 Steven D. Michael, Chair, Joshua W. Willey and Joseph Barlow Herget 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 Barry S. McNeill. Defendant, Michael C. Park, represented himself. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the entry of this Order and to the discipline imposed. Defendant waives any right to appeal this consent Order or to challenge in any way the sufficiency of the findings.

Based upon the consent of the parties, the hearing panel hereby makes, by clear, cogent and convincing evidence, the following

#### 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, Michael C. Park (“Park”), was admitted to the North Carolina State Bar on March 23, 2002, 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, Park was engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina, doing business as the Park Law Firm, P.A.

4. On November 29, 2007, John T. Lewis ("Lewis") purchased property located at 605 Powerline Avenue, Belmont, North Carolina.

5. Park was the settlement attorney for the closing of the property referenced in Paragraph 4.

6. Park's responsibilities as the settlement attorney for the closing of the property referenced in Paragraph 4 included preparing the deed to convey the property to Lewis, timely filing the deed with the Register of Deeds, and disbursing from the entrusted funds the applicable recording fee and excise taxes for the property.

7. Following the closing, Park's paralegal forwarded the deed and deeds of trust to the register of deeds for recording, along with checks from the Park Law Firm recording account in the amounts of \$156 for the revenue stamps and \$59 for the recording of the deeds of trust.

8. Park's paralegal did not forward to the register of deeds a check in the amount of the recording fee for the deed.

9. The register of deeds recorded the deeds of trust but, because of the absence of the recording fee for the deed, the register of deeds did not record the deed transferring the title of the property referenced in Paragraph 4 to Lewis.

10. Because the check issued by the Park Law Firm in the amount of \$156 for the revenue stamps never cleared the Park Law Firm recording account, Park reasonably should have known that the Lewis deed had not been recorded by the Register of Deeds.

11. On his own initiative, and unable to contact Park, on March 12, 2010, Lewis remedied the filing of the deed transferring the title of the property referenced in Paragraph 4.

12. Until approximately October 18, 2010 when Park received a grievance against him by Lewis, Park was unaware that the register of deeds rejected the filing of the deed transferring the title of the property referenced in Paragraph 4 to Lewis and that this deed had not been timely filed by him and his firm.

13. In August 2011, Park settled a civil suit initiated against him by Lewis, reimbursing Lewis for fees and expenses incurred, but without admitting any wrongdoing.

14. On February 15, 2008, Park was the settlement attorney for Charles S. Gunter, Jr. ("Gunter") for his purchase of property located at 11300 Quarterhorse Court, Charlotte, North Carolina, from William and Michele Webb ("Webbs").

15. Park's responsibilities as the settlement attorney for the closing of the property referenced in Paragraph 14 included timely filing the deed with the Register of Deeds and disbursing from the entrusted funds the applicable recording fee and excise taxes for the property.

16. Following the closing, Park's paralegal forwarded the deed and deed of trust to the register of deeds for recording, along with a check from the Park Law Firm trust account in the amount of \$428 for the revenue stamps and recording fees.

17. On April 21, 2008, the register of deeds returned the deed and uncashed check to the Park Law Firm via a form indicating that the check should have been in the amount of \$434, not \$428.

18. Park believes the register of deed's mailing of April 21, 2008 was inadvertently packed in a moving box or file storage box during the period in which he was winding down his practice in anticipation of his moving to Texas.

19. As a result, Park failed to timely record the deed transferring the title of the property referenced in Paragraph 14 from the Webbs to Gunter.

20. The uncashed check for \$428 remains in Park's trust account.

21. On their own initiative, and unable to contact Park, on June 17, 2009 the Webbs remedied the filing of the deed transferring the title of the property referenced in Paragraph 14 to Gunter.

22. In June 2008, Park ceased the practice of law and moved to McKinney, Texas.

23. As of the filing of the complaint, Park had 23 outstanding disbursements from his trust account which he had made by issuance of checks between April 2007 and February 2008 totaling \$6,827.63.

24. Between January 2008 and June 2008, Park reconciled the remaining transactions involving his trust account, with the last transactions occurring in February 2008.

25. Park's reconciliation shows there are eleven former clients whose accounts are out of balance, either in a positive or negative amount, with a net balance of \$824.

26. After June 2008, no additional outstanding checks have cleared Park's trust account and there has been no additional trust account activity.

27. From June 2008 through the filing of this complaint, Park did not conduct monthly reconciliations of his trust account.

28. From June 2008 through the filing of this complaint, Park did not conduct quarterly reconciliations of his trust account.

29. From June 2008 through the filing of this complaint, Park has not sent written accountings to clients whose funds he has continued to hold in his trust account for more than one year.

30. Plaintiff's investigation and audit of Park's trust fund has produced no evidence that Park misappropriated any clients' entrusted funds to his or any third party's benefit.

Based upon the foregoing Findings of Fact, the panel enters the following

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Michael C. Park, and the subject matter of this proceeding.
2. Park'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 file the deed conveying the property to Lewis, and by failing to disburse Lewis' funds for the recording of the deed and excise taxes, Defendant failed to act with reasonable diligence and promptness in representing his client in violation of Rule 1.3 and failed to timely disburse client funds in violation of Rule 1.15-2(m);
  - (b) By failing to file the deed conveying the property from the Webbs to Gunter, and by failing to disburse the funds for the recording of the deed and excise taxes, Defendant failed to act with reasonable diligence and promptness in representing his client in violation of Rule 1.3 and failed to timely disburse client funds in violation of Rule 1.15-2(m);
  - (c) By failing to conduct monthly and quarterly reconciliations of his trust account, Defendant violated Rule 1.15-3(d);
  - (d) By failing to send accountings to clients whose funds he has held in his trust account for more than one year, Defendant violated Rule 1.15-3(e); and,
  - (e) By failing to promptly disburse entrusted clients' funds in his trust account, Defendant violated Rule 1.15-2(m).

Based upon the consent of the parties, the hearing panel also finds by clear, cogent, and convincing evidence the following

#### ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant has substantial experience in the practice of law.
2. Defendant's failure to ensure the timely recording of the deeds in the Lewis and Gunter matters caused significant harm to his clients and had the potential to cause significant harm to the public's perception of the legal profession.

3. Defendant's failure to comply with the State Bar's regulations related to the safekeeping of entrusted property in his trust account had the potential to cause significant harm to the public's perception of the legal profession.

4. Defendant's failure to comply with the State Bar's regulations related to the safekeeping of entrusted property in his trust account had the potential to cause significant harm to his affected clients.

5. Defendant has been cooperative during the State Bar's investigation of these matters and the audit of his trust account.

6. Defendant understands the significance of his misconduct and is remorseful for the frustration that his conduct caused his clients.

7. Defendant has not previously been disciplined for violating the Rules of Professional Conduct.

8. Defendant was administratively suspended on September 30, 2010 for failure to pay State Bar membership fees for the years 2008, 2009, and 2010, and continuing legal education deficits for the years 2007, 2008, and 2009.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel also enters 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. Admin. Code 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds the following factors are applicable in this matter:

- a. Defendant engaged in multiple offenses;
- b. Defendant is remorseful for his conduct;
- c. The vulnerability of the victims; and
- d. Defendant's substantial experience in the practice of law.

2. 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 finds the following factors warrant suspension of Defendant's license:

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

- b. Defendant's conduct had a negative impact on the administration of justice; and
- c. Defendant's conduct impaired each client's ability to achieve the goals of the representation.

3. The Hearing Panel has also carefully 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.

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

5. The hearing panel finds and concludes that the public will be adequately protected by imposing a period of active suspension which is stayed upon Defendant's compliance with conditions designed to ensure protection of the public and to ensure Defendant's compliance with the Rules of Professional Conduct.

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

#### ORDER OF DISCIPLINE

1. The license of Defendant, Michael C. Park, is hereby suspended for one year. This period of active suspension is stayed for one year upon Defendant's compliance with the following conditions:

a. Within ninety (90) days of the effective date of this Order, Defendant shall reimburse the Webbs a total of \$372, representing the sellers' portion of the excise taxes and deed recording fees, and Defendant shall reimburse to Gunter a total of \$95, representing the buyer's portion of the deed recording fees;

b. Within six months of the effective date of this Order, and after making diligent efforts to find current address and identification information for the appropriate payees, Defendant shall stop payments on and reissue disbursement checks concerning all of the outstanding disbursement funds remaining in his trust account as identified on the attached report dated August 22, 2010. Within 15 days of reissuing these disbursement checks, Defendant shall provide the State Bar, care of deputy counsel, confirmation of their reissuance, including images of the checks and copies of any forwarding correspondence;

c. If Defendant is unable to locate the appropriate payees or otherwise make the disbursements in paragraph b above, Defendant shall follow the procedures for the escheat of abandoned or unidentified funds pursuant to Rule 1.15-2(q) and N.C. Gen. Stat. §116B-1 *et. seq.* Within 15 days of initiating escheat procedures, Defendant shall provide the State Bar, care of deputy counsel, an explanation of the client's funds being escheated and documentation of the efforts Defendant has made to disburse the funds to the client;

d. Within six months of the effective date of this Order, Defendant shall reconcile the accounts of the eleven (11) clients whose accounts are out of balance as identified on the attached Multiple Balances Report dated August 22, 2010. Within 15 days of reconciling these accounts, Defendant shall provide the State Bar, care of deputy counsel, confirmation of their reconciliation and an explanation why the accounts were in a positive or negative balance. Any trust funds owed by Defendant to such clients shall be disbursed within seven (7) days of the reconciliation. Within 15 days of issuing disbursement checks to any such clients, Defendant shall provide the State Bar, care of deputy counsel, confirmation of the disbursement, including images of the checks and copies of any forwarding correspondence;

e. Defendant must pay the costs and administrative fees of this action as described in paragraph 5 below;

f. Defendant shall provide the North Carolina State Bar with a physical mailing address which shall not be a post office box address and keep his address of record with the North Carolina State Bar current. Defendant shall accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen (15) days of receipt, whichever is later;

g. Defendant shall pay any past due State Bar membership fees and costs within 90 days, pay any past due State Bar continuing legal education fees and costs within 90 days, and remedy any deficits involving his continuing legal education requirements within six (6) months; once reinstated from administrative suspension, Defendant shall timely comply with his State Bar membership and continuing legal education requirements, and pay all fees and costs assessed by the applicable deadlines;

h. Defendant shall participate fully and timely in the fee dispute program when notified of any petitions for resolution of disputed fees;

i. Defendant shall not violate the laws of any state or of the United States; and

Discipline and Disability Rules. If the stay granted herein is lifted or the suspension of Defendant's license is activated for any reason, before a subsequent stay of the suspension can be entered Defendant must show by clear, cogent, and convincing evidence that he has complied with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B § .0125 of the North Carolina State Bar Discipline & Disability Rules and the conditions set out in Paragraphs 1 (a) – (j) above for any subsequent stay of the suspension.

3. If Defendant does not seek a stay of any active period of suspension, Defendant must provide in his application for reinstatement clear, cogent, and convincing evidence of the following:

a. Compliance with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B § .0125 of the North Carolina State Bar Discipline & Disability Rules; and


b. Compliance with the conditions set out in Paragraphs 1 (a) – (j) above.

4. Nothing in this Order shall prohibit the State Bar from investigating and, if necessary, pursuing disciplinary action against Defendant for additional misconduct discovered or reported which occurred during the same time period as the conduct addressed in this Order.

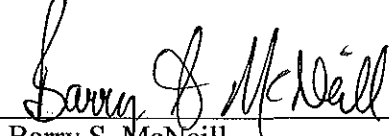
5. All costs and administrative fees of this action are taxed to Defendant. Defendant must pay the costs of this action within 120 days of service upon him of the statement of costs by the Secretary.

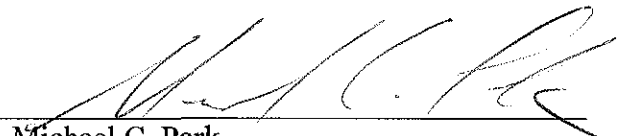
6. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout any period of stayed suspension.

8<sup>th</sup> Signed by the Chair with the consent of the other hearing panel members, this the  
day of April, 2013.

  
Steven D. Michael, Chair  
Disciplinary Hearing Panel

CONSENTED TO BY:

  
Barry S. McNeill

  
Michael C. Park

# Receipts & Disbursements Report - All Outstanding Receipts & Disbursements

Selection Criteria

Trust Account: *WACHOVIA*  
 Outstanding as of: *08/22/10*

Trust Account Description: *Park Law Firm Trust Account*

Ref/Ck No.	Transaction Date	Medium	Firm File ID	Payee Name	Cleared Date	Amount
<b>Disbursements</b>						
1001	05/16/07		STEELE, TAMMY	Gaston County Register of I		\$316.00
1030	05/17/07		NALLS, KYLE	City of Charlotte		\$150.00
1187	05/30/07		MEADE, DERRICK	Beaufort County Register of		\$260.00
1311	06/05/07		HEMINGWAY	Chase		\$7.00
1469	06/18/07		BENDER	Landsafe Credit		\$18.00
1734	07/06/07		PADGETT	investors title		\$118.00
2004	08/06/07		CORNATZAR	First American Flood		\$9.00
2019	08/06/07		HAGER, GAYLE	Integrity Title Group LLC		\$205.00
2225	08/24/07		BISHOP	Lecrae Bishop		\$2.25
2440	10/09/07		ODEA	Integrity Title Group LLC		\$950.00
2487	10/11/07		BEASON	Brett Beason		\$239.51
2635	11/15/07		SHEEHAN, TIMOTHY	Metlife		\$284.30
2641	11/15/07		DORSEY	Nations Title		\$50.00
2664	11/19/07		THONGPHACHANH	Aphisone Thongphachanh		\$26.60
2688	11/20/07		HINTON, BAILY	Credit Plus		\$30.12
2710	11/27/07		HALL, JEFFERY	Mecklenburg County Tax C		\$1,701.97
2763	12/06/07		RYBACKI	Tracy Jo Jones		\$10.00
2764	12/06/07		RYBACKI	Currituck Farm Bureau		\$25.00
2790	12/10/07		FERNANDEZ, CARLOS	JLF Real Estate		\$325.00
2793	12/10/07		FERNANDEZ, CARLOS	Mecklenburg County Tax C		\$1,381.54
2852	12/19/07		VANG	GMAC		\$225.00
2903	12/27/07		BANKS,PATRICK	Camden County Tax Coll		\$65.34
2980	02/15/08		GUNTER, CHARLES	Mecklenburg County Regis		\$428.00
<b>23 DISBURSEMENTS for Park Law Firm Trust Account:</b>						<b>\$6,827.63</b>
<b>RECEIPTS less DISBURSEMENTS:</b>						<b>-\$6,827.63</b>

## Multiple Balances Report ( Balances Only ) - Sorted By File ID

Selection Criteria

Trust Account: *WACHOVIA*  
Balances as of: *08/22/10*.

Trust Account Description: *Park Law Firm Trust Account*

Firm File ID	Trust Account	Client / Matter Ledger Comment / Property	Reminder Date	Balance	RFD
BAILEY	WACHOVIA	Bailey, Lisa M Property: 505 Meadow St/Gibsonville NC 27249		\$0.02	
BREWER, ROSS	WACHOVIA	Brewer, Ross J/Brewer, Barbara Property: 715 North Church St Unit 416/Charlotte		-\$405.19	
DAVIS	WACHOVIA	Marriott, Elizabeth Property: 3108 Wild Lark Ct/Charlotte NC 28210		-\$283.63	
DEMBRY, JOSEPH	WACHOVIA	Dembry, Joseph Property: 2834 NC Highway 45 South/Colorain NC		\$30.52	
GEGAN, DOREEN	WACHOVIA	Gegan, Doreen Property: 101 Sycamore Lane/Elizabeth City NC		\$18.19	
GONGER	WACHOVIA	Gongar, Cecella Lampty/Gongar, Alexander K. Property: 1803 Folly Gate Court/Charlotte NC		\$375.00	
JENKINS	WACHOVIA	Jenkins, Martin Williams/Jenkins, Betty Lo Property: 330 Glenridge Court/Indian Trail NC		\$1,000.00	
LYERLY	WACHOVIA	Lyerly, Richard Property: 8121 Cedar Glen Drive Unit 8121/		\$1.10	
POSSO	WACHOVIA	Posso, Diego L./Alvarez-Posso, Mirna E. Property: 2211 Brandybuck Ln/Charlotte NC 28269		\$0.01	
RAPE	WACHOVIA	Rape, Robert/Rape, Pamela Property: 1200 E. Sandy Ridge Lane/Monroe NC		-\$4.02	
WIEGAND	WACHOVIA	Wiegand, Ashley Property: 418 Kildee Street/Clayton NC 27520		\$92.00	
<b>Balance:</b>				<b>\$824.00</b>	