

20563

WAKE COUNTY  
NORTH CAROLINA

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

THE NORTH CAROLINA STATE BAR )  
Plaintiff )

v. )

GABRIELEE LOCKLEAR, ATTORNEY )  
Defendant )

ORDER  
OF DISCIPLINE

THIS MATTER was heard on the 18<sup>th</sup> day of August, 2000 before a hearing committee of the Disciplinary Hearing Commission of the N.C. State Bar composed of James R. Fox, Chair; W. Steven Allen and Robert Frantz. The defendant, Gabriele Locklear, was represented by Brian K. Manning. Carolin Bakewell represented the N.C. State Bar.

Based upon the evidence produced at trial, and the statements and admissions of the parties at the hearing, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina 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 promulgated thereunder.

2. The Defendant, Gabriele Locklear (hereafter, Locklear), was admitted to the North Carolina State Bar in 1994, 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.

3. During all of the relevant periods referred to herein, Locklear was engaged in the practice of law in the State of North Carolina and maintained an office for the practice of law in Robeson County, North Carolina.

4. Locklear was properly served with the State Bar's summons and complaint herein and was subject to the personal jurisdiction of the Disciplinary Hearing Commission.

5. During the State Bar's case in chief in this matter, and before the State Bar rested, Locklear indicated, through his attorney, that he did not wish to contest the State Bar's complaint and that he desired to surrender his law license.

6. The hearing committee temporarily recessed the hearing following Locklear's announcement, to permit the parties to confer. Locklear conferred with his attorney during the recess.

7. Following the recess, the hearing re-convened and Locklear, through his attorney, admitted the allegations as set out in the State Bar's First, Second, Fourth and Fifth Claims for Relief, including the Rule violations set out therein. Locklear also consented to entry of an order disbaring him from the practice of law in North Carolina.

8. Locklear was present during all of the proceedings in this matter. At no time did he object to any of the admissions made on his behalf by his attorney of record.

9. Locklear was offered an opportunity to comment or make a statement on his behalf but declined to do so.

10. Counsel for the N.C. State Bar indicated that the State Bar had agreed to take a voluntary dismissal of the charges set out in the State Bar's Third and Sixth Claims for Relief.

11. Following the hearing in this matter, a proposed order was circulated to Locklear's attorney for review and signature by Locklear and his attorney.

12. Neither Locklear nor his attorney have objected to any provisions in the draft order in this matter.

13. Locklear failed to respond to his attorney's inquiries about the order and failed to sign the order.

#### Findings of Fact Relating to the First Claim For Relief

14. In January 1997, Locklear undertook to handle a personal injury case for Latoya and Juanita McCall (hereafter, the McCalls).

15. Locklear settled the McCalls' claims prior to July 21, 1997. Between June 3, 1997 and July 21, 1997, Locklear deposited settlement funds totaling \$10,500 on

behalf of the McCalls into his FU trust account account number 2000000434425 at First Union National Bank (hereafter, FU trust account).

16. Between June 6, 1997 and July 28, 1997, Locklear disbursed all but \$5,533.53 of the McCalls' funds to the McCalls or to third parties for their benefit.

17. Locklear was entitled to a fee of no more than \$3,496.50 for his services in settling the McCalls' case.

18. Locklear did not disburse any other sums to the McCalls or to third parties on their behalf from his FU trust account after July 28, 1997.

19. After deducting his fees, Locklear should have maintained at least \$2,037.03 in his FU trust account at all times on and after July 28, 1997 for the McCalls' benefit.

21. The balance in Locklear's FU trust account dropped below \$2,037.03 on numerous occasions after July 28, 1997 including Aug. 29, 1997, Sept. 25, 1997 – Oct. 1, 1997, Oct. 27, 1997, June 15 – June 30, 1999, Sept. 29 – Nov. 2, 1999 and Nov. 16, 1999- Jan. 31, 2000.

22. Locklear misappropriated all or a portion of the funds which he should have held in trust for the McCalls without their consent and knowledge.

#### Findings of Fact Relating to Second Claim for Relief

23. Before July 6, 1999, Locklear undertook to handle a closing for the sale of residential real property by Catherine Dunahoe to Bobby and Betty S. Hunt (hereafter, the Hunts).

24. On July 7, 1999, Locklear deposited a total of \$52,299 into his FU trust account on the Hunts' behalf.

25. Between July 7, 1999 and Sept. 3, 1999, Locklear disbursed all but \$743.91 of the sums he had received on behalf of the Hunts to the Hunts or third parties on their behalf.

26. Locklear did not disburse any other sums to the Hunts or to third parties on their behalf from his FU trust account after Sept. 3, 1999.

27. At all times on and after Sept. 3, 1999, Locklear should have maintained at least \$743.91 in his FU trust account on the Hunts' behalf.

28. The balance in Locklear's FU trust account dropped below \$743.91 on Sept. 30, 1999 and remained below \$743.91 until at least Oct. 29, 1999.

29. Locklear misappropriated all or a portion of the funds which he should have held in trust for the Hunts without their knowledge or consent.

#### Findings of Fact Relating to Fourth Claim For Relief

30. On or about May 26, 1999, Locklear closed the purchase of real estate by Wesley Blue (hereafter, Blue), from Bryants Repo.

31. Between May 26, 1999 and June 2, 1999, Locklear deposited a total of \$37,320.20 into his FU trust account on Blue's behalf.

32. Between June 1, 1999 and June 16, 1999, Locklear disbursed a total of \$39,794 from his FU trust account to himself or to third parties on Blue's behalf.

33. The sums which Locklear disbursed relating to the Blue closing exceeded the funds which Locklear had on deposit for Blue in the FU trust account by \$2,473.80.

34. All or a portion of the \$2,473.80 which Locklear disbursed to himself or third parties from the FU trust account represented funds belonging to other clients.

35. Locklear did not have his clients' permission to disburse their funds from the FU trust account to himself or third parties on behalf of Wesley Blue.

#### Findings of Fact Relating to Fifth Claim for Relief

36. In the fall of 1998, Locklear hired two non-attorneys, Lynn and Jerry Stamps, to work in his law office.

37. Locklear knew that Lynn nor Jerry Stamps were non-attorneys and that neither has ever been licensed to practice law in North Carolina.

38. Despite the fact that he knew neither Lynn nor Jerry Stamps was licensed to practice law in North Carolina, on various occasions Locklear divided legal fees with Lynn and/or Jerry Stamps, including the following:

- a. On or about Jan. 11, 1999, Locklear divided with Jerry Stamps the fee which Locklear earned in a case which Locklear handled for Joseph Patterson.
- b. On or about Dec. 21, 1998, Locklear divided with Jerry and Lynn Stamps the fee which he earned in a case which Locklear handled for Roger Godwin.
- c. On or about Jan. 14 1999, Locklear divided with Lynn Stamps the fee which he earned in a case Locklear handled for Carl Oxendine.

Based upon the parties' consent and the findings of fact entered herein, the hearing committee hereby enters the following:

#### CONCLUSIONS OF LAW

1. By misappropriating all or a portion of the funds which he should have held in trust for the McCalls without their knowledge or consent, Locklear engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), engaged in criminal conduct that reflects adversely on his honesty, trustworthiness or fitness as a lawyer, in violation of Rule 8.4(b) and failed to hold funds in trust in violation of Rule 1.15-2 of the Revised Rules of Professional Conduct.

2. By misappropriating all or a portion of the funds he should have held intact for the benefit of Bobby and Betty Hunt without their knowledge or consent, Locklear engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), engaged in criminal conduct that reflects adversely on his honesty, trustworthiness or fitness as a lawyer, in violation of Rule 8.4(b), and failed to hold client funds in trust in violation of Rule 1.15-2 of the Revised Rules of Professional Conduct.

3. By misappropriating \$2,473.80 in client funds from his FU attorney trust account without the consent or knowledge of the clients and by disbursing those funds to himself and third parties for the benefit of Wesley Blue, Locklear engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), engaged in criminal conduct that reflects adversely on his honesty, trustworthiness or fitness as a lawyer, in violation of Rule 8.4(b) and failed to hold funds in trust in violation of Rule 1.15-2 of the Revised Rules of Professional Conduct.

4. By sharing legal fees with Jerry and Lynn Stamps, who were not licensed to practice law in North Carolina, Locklear divided legal fees with non-attorneys in violation of Rule 5.4(a) of the Revised Rules of Professional Conduct.

5. The Third and Sixth Claims for Relief in the State Bar's Complaint should be and are hereby dismissed pursuant to the State Bar's consent.

6. Through his attorney of record, Locklear knowingly and voluntarily admitted to the violations alleged in the First, Second, Fourth and Fifth Violations of the State Bar's Complaint in open court. Locklear knowingly and voluntarily agreed to entry of an order of disbarment.

Based upon the foregoing Findings of Fact and Conclusions of Law and based upon the consent of the parties, the hearing committee hereby enters the following:

#### ORDER OF DISCIPLINE

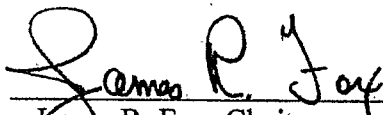
1. The Defendant Gabriele Locklear, is hereby disbarred from the practice of law in North Carolina.

2. Locklear shall pay the costs of this proceeding as assessed by the Secretary no later than 30 days from the date of service of the statement of costs upon him.

3. Locklear shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B section .0124 of the N.C. State Bar Discipline & Disability Rules.

Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

This the 16<sup>th</sup> day of October, 2000.

  
\_\_\_\_\_  
James R. Fox, Chair  
Disciplinary Hearing Committee