

STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 25

THE NORTH CAROLINA STATE BAR,
Plaintiff
v.
CARL R. WRIGHT, Attorney,
Defendant

CONSENT ORDER
OF
DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Steven D. Michael, Chair, William O. King, and Bradley Lail. Leonor Bailey Hodge represented Plaintiff, the North Carolina State Bar. Alan M. Schneider represented Defendant, Carl R. Wright. Defendant waives a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. Defendant knowingly, freely and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings by consenting to entry of this order.

Based on the foregoing and on 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 North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.
2. Defendant, Carl R. Wright ("Wright" or "Defendant"), was admitted to the North Carolina State Bar on 22 August 1981 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 the relevant periods referred to herein, Wright was engaged in the practice of law in the State of North Carolina and maintained a law office in High Point, Guilford County, North Carolina.
4. Wright maintained two attorney trust accounts at High Point Bank.

5. Wright used the first account, ending in number 0535, primarily for real estate transactions (hereinafter "real estate trust account").

6. Wright used the other account, ending in number 8780, for all other transactions (hereinafter "general trust account").

7. On 14 August 2012, Wright was the subject of a random audit of his trust accounts.

8. The random audit showed deficiencies in Wright's management of his trust accounts including: failure to perform quarterly or monthly reconciliations of the trust accounts, failure to identify client/source on deposit slips and wire transfers, failure to provide annual accountings to clients for whom he held funds in trust for more than twelve months, using entrusted funds held for the benefit of one client to make disbursements for the benefit of other clients, failure to promptly disburse client funds, and failure to maintain appropriately-sized, legible copies of canceled checks.

9. Wright had previously been the subject of two prior random audits: one in August 1988 and one in February 1994.

10. The August 1988 and February 1994 audits revealed similar deficiencies in Wright's management of his trust accounts.

11. The State Bar conducted an investigative audit of Wright's trust accounts after the August 2012 random audit.

12. The results of the investigative audit confirmed the existence of the deficiencies found during the August 2012 random audit.

13. In the following instances, Wright advanced funds for clients before making the deposit into the general trust account on their behalf:

(a) On or about 24 August 2011, \$120.00 to Clerk of Superior Court for a client matter indentified as W. Partition. The funds for this transaction were credited to the general trust account on 8 December 2011; and

(b) S. Johnson – \$25.00 to Clerk of Court on or about 10 May 2012 and \$55.00 to Sheriff on or about 11 May 2012. The funds for Johnson's transaction were credited to the general trust account on 27 July 2012.

14. In the following instances, Wright advanced funds for clients before making the deposit into the real estate trust account on their behalf:

(a) F. Guerra - \$300.00 to W. Allen on or about 7 April 2010, \$975.58 to W. Allen on or about 8 April 2010, and \$106.00 to Register of Deeds on or about 8 April 2010. The funds for Guerra's transaction were credited to the real estate trust account on 9 April 2010;

(b) J. Avery - \$550.00 to Carl R. Wright on or about 4 February 2010 and \$89.00 to Guilford County Register of Deeds on or about 8 February 2010. The funds for Avery's transaction were credited to the real estate trust account on 9 February 2010;

(c) K. Investments (Farriss) - \$450.00 to Carl R. Wright on or about 4 February 2010, \$25,206.12 to Secretary of Housing and Urban Development on or about 8 February 2010, \$379.00 to Bank of North Carolina on or about 8 February 2010, and \$70.00 to Guilford County Register of Deeds on or about 8 February 2010. The funds for Farriss's transaction were credited to the real estate trust account on 9 February 2010;

(d) J. Vaughn 409 - \$56.00 to Register of Deeds on or about 13 December 2011. The funds for Vaughn's transaction were credited to the real estate trust account on 15 December 2011; and

(e) P. Butterwood 30 - \$575.00 to Carl R. Wright on or about 18 June 2012, \$504.92 to Younts Insurance Agency on or about 20 June 2012, \$298.00 to Guilford County Register of Deeds on or about 20 June 2012, and \$14.13 to T. Parker on or about 27 June 2012. The funds for Butterwood's transaction were credited to the real estate trust account on 3 July 2012.

15. In five instances, Wright failed to promptly disburse funds from the real estate trust account to clients or to third parties on their behalf.

16. Wright maintained personal funds in the real estate trust account that greatly exceeded the funds needed to maintain the account and pay any bank service charges or tax levied on the account.

17. Wright also maintained personal funds in the general trust account from his personal business investments.

18. Wright was a co-investor in several real estate transactions with William Allen (hereinafter "Allen"). Allen was also a long time client of Wright.

19. Wright served as settlement agent for several of these transactions in which he was involved as a co-investor -- Wright represented the borrowers and Allen, the lender.

20. Wright failed to inform the borrowers of his personal involvement in these transactions and failed to provide written documentation disclosing his involvement.

21. Wright also failed to obtain the borrowers' written consent to Wright's dual role in the transactions.

Based upon the consent of the parties and the foregoing Findings of Fact, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Carl R. Wright, and over the subject matter.

2. Defendant's conduct as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to reconcile his trust accounts, Wright failed to perform monthly and quarterly reconciliations of his trust accounts in violation of Rule 1.15-3(d);
- (b) By failing to identify the client on deposit slips and wire transfers and failing to maintain appropriately sized copies of canceled checks, Wright failed to maintain the minimum records required for general trust accounts in violation of Rule 1.15-3(b);
- (c) By disbursing funds from the trust accounts on behalf of clients for whom Wright had not yet deposited funds into the accounts, Wright used entrusted property for the personal benefit of persons other than the legal or beneficial owners of that property in violation of Rule 1.15-2(j);
- (d) By failing to provide to each client a written accounting of his or her trust account balance at least annually, Wright failed to provide written accountings of the receipt and disbursement of all trust funds to clients in violation of Rule 1.15-3(e);
- (e) By failing to timely disburse client funds for five clients, Wright failed to promptly deliver client property in violation of Rule 1.15-2(m);
- (f) By maintaining personal funds in the trust account in excess of the amount needed for maintenance of the account, Wright failed to segregate his personal funds from entrusted funds in violation of Rule 1.15-2(a) and (f); and
- (g) By failing to inform the borrowers of his role as co-investor in the transactions with Allen and also failing to obtain their written consent to his dual role, Wright entered into a business transaction with a client without fully disclosing the terms of his interest in the transaction and without obtaining the client's written consent in violation of Rule 1.8(a).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. Wright cooperated with the State Bar's investigation into his handling of entrusted client funds.
2. Wright has expressed remorse for his misconduct.
3. Wright's failure to properly maintain, manage, and handle entrusted funds violates the trust clients and the public place in attorneys and the legal profession. Clients are entitled to have their funds handled with the utmost care.
4. Wright's continued failure to reconcile his trust accounts and failure to maintain proper trust account records in light of previous audits demonstrates a pattern of misconduct and demonstrates Wright's intent to commit acts where the potential harm is foreseeable.

Based upon the Findings of Fact and Conclusions of Law above and the Additional Findings of Fact Regarding Discipline, and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(1) and concludes that the following factors that warrant suspension or disbarment are present:
 - (a) Intent of the defendant to commit acts where the harm or potential harm is foreseeable; and
 - (b) Negative impact of defendant's actions on client's or public's perception of the profession.
2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(2) and concludes that no factors that warrant disbarment are present.
3. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0114(w)(3) and concludes that the following are applicable in this matter:
 - (a) Absence of dishonest or selfish motive;
 - (b) Multiple offenses;
 - (c) Defendant's cooperative attitude toward the proceedings;
 - (d) Defendant's remorse;

- (e) Good character and reputation; and
 - (f) Defendant has been licensed to practice law for approximately thirty-four years.
4. Defendant caused potential significant harm to his clients by failing to properly manage their entrusted funds.

5. The Hearing Panel has considered all lesser sanctions including: censure, reprimand and admonition, and finds that discipline less than a stayed suspension would not adequately protect the public from Defendant's future misconduct because (i) of the gravity of potential significant harm to clients, and (ii) a period of reporting pursuant to a stayed suspension is necessary to ensure Defendant's proper handling of entrusted funds.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, and on the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Carl R. Wright, is hereby suspended from the practice of law for two years, effective 30 days from service of this order upon Wright.
2. Defendant shall pay, within 30 days of service of the statement of fees and costs upon him by the Secretary of the State Bar, the administrative fees and costs of this proceeding.
3. The two year suspension is stayed for a period of two years as long as Defendant complies with the following conditions:
- (a) Wright pays the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 30 days of service of the statement of fees and costs upon him.
 - (b) Within thirty (30) days of this order's effective date, Defendant shall retain a certified public accountant ("CPA") approved in advance by the Office of Counsel who shall audit his trust accounts. Defendant will cooperate with the CPA to ensure that the audit is completed within sixty (60) days of the date the CPA is first retained. The CPA shall provide monthly written reports to the State Bar updating the State Bar on the audit's progress until the audit is complete. Upon completion of the audit, the CPA shall provide the State Bar with a written final audit report that identifies who owns the funds presently held in Defendant's trust account and which identifies any shortage in the trust account. It is Defendant's

sole responsibility to ensure that the CPA completes and submits the reports required herein.

- (c) Within fifteen (15) days of completion of the CPA's audit of Defendant's trust accounts, Defendant shall petition the court in Wake County Superior Court Case File No. 12 CVS 13587 (i) to replenish the trust account(s) for any shortfall that the CPA has found to exist in his trust account(s), and (ii) to disburse the funds held in his trust account(s) to the rightful owners.
- (d) Defendant shall comply with Rule 1.15-2(q) regarding all unidentified funds in Defendant's trust account(s) and comply with Chapter 116B of the General Statutes within sixty (60) days of being statutorily permitted to escheat funds to the State.
- (e) Wright shall provide to the State Bar's Office of Counsel quarterly (April 15 for the quarter ending March 31, July 15 for the quarter ending June 30, October 15 for the quarter ending September 30 and January 15 for the quarter ending December 31) the written report of the three-way reconciliation of all attorney trust accounts to which he has access using the reconciliation method described and form found in the online State Bar Lawyer's Trust Account Handbook, rev. 12/2014, pages 33 - 42. In addition to the three-way reconciliation report, Wright shall provide (i) client ledgers for each client whose funds are held in the trust account(s) during the quarter covered by the submitted report, (ii) ledger for any personal funds Wright maintained in the trust account(s) for bank or credit card fees, (iii) the general ledger(s) for each trust account to which Wright has access, and (iv) the following bank documentation for the quarter covered by the submitted report: the bank statement, canceled checks and deposit slips or other bank documentation that identifies the source of all deposits into the account for each trust account to which Wright has access.
- (f) Wright shall provide any other records requested by the Office of Counsel within ten days of the request.
- (g) Within six months of the effective date of this order, Wright shall complete the trust account continuing legal education (CLE) course taught by State Bar Trust Accounting Compliance Counsel Peter Bolac (usually titled "Trust Accounting Rules" or "Trust Accounting Rules: Avoid the Pitfalls.") This CLE requirement is in addition to the CLE requirements set out in 27 N.C. Admin. Code 1D § .1518.
- (h) Wright shall keep the State Bar Membership Department advised of his current business address. Wright shall notify the State Bar of any change of address within ten days of such change. His current business address must be a street address, not a post office box or drawer.

- (i) Wright shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of such communication or by the deadline stated in the communication, whichever is sooner.
- (j) Wright shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this order.
- (k) Wright shall timely comply with all State Bar Membership and CLE requirements.
- (l) Wright shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government.

4. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end two years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the two year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

5. If Wright fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted in accordance with 27 N.C. Admin. Code 1B § .0114(x).

6. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Wright's license at the end of the suspension. Additionally, Wright must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

- (a) Wright submitted his law license and membership card to the Secretary of the State Bar within thirty (30) days of the date of the order lifting the stay and/or activating the suspension of his law license;

- (b) Wright complied with the provisions of 27 N.C. Admin. Code 1B § .0124 following entry of the order lifting the stay and/or activating the suspension of his law license;
- (c) Wright timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (d) Wright has had his trust account(s) audited by a CPA.
- (e) Wright, upon completion of the CPA's audit of his trust account(s), petitioned the court in Wake County Superior Court Case File No. 12 CVS 13587 (i) to replenish the trust account(s) for any shortfall that the CPA has found to exist in his trust account(s), and (ii) to disburse the funds held in his trust account(s) to the rightful owners.
- (f) That within fifteen (15) days of the effective date of the order activating the suspension Wright provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Wright and obtain such files;
- (g) That Wright provided within ten days client files to all clients who made a request for return of their files;
- (h) Wright has kept the State Bar Membership Department advised of his current business street addresses (not post office box or drawer addresses) and notified the State Bar of any change in address within ten days of such change;
- (i) Wright has responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty (30) days of receipt or by the deadline stated in the communication, whichever is sooner;
- (j) At the time of his petition for reinstatement, Wright is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other charges or surcharges the State Bar is authorized to collect from him, including all judicial district dues and assessments;
- (k) At the time of his petition for reinstatement, there is no deficit in Wright's completion of mandatory CLE hours in reporting of such hours or in payment of any fees associated with attendance at CLE programs;
- (l) At the time of his petition for reinstatement, Wright has completed within the six months that immediately preceded his petition for reinstatement the trust account CLE course taught by NC State Bar Trust Accounting

Compliance Counsel Peter Bolac (usually titled "Trust Accounting Rules" or "Trust Accounting Rules: Avoid the Pitfalls"); and


(m) Wright has not violated the Rules of Professional Conduct or the laws of the United States, or the laws of any state or local government during his suspension.

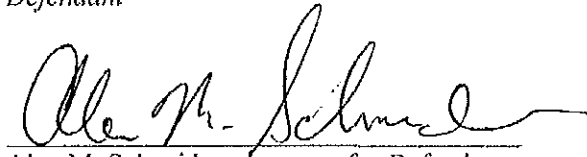
7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0114(x) until all conditions of the stay of suspension are satisfied.

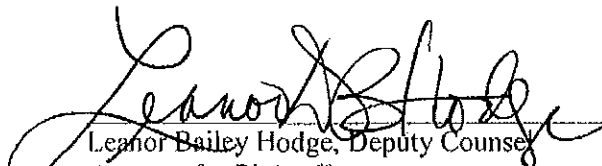
Signed by the Chair with the consent of the other Hearing Panel members this the 30th day of October, 2015.


Steven D. Michael, Chair
Disciplinary Hearing Panel

WE CONSENT:


Carl R. Wright
Defendant


Alan M. Schneider, Attorney for Defendant


Lleanor Bailey Hodge, Deputy Counsel
Attorney for Plaintiff