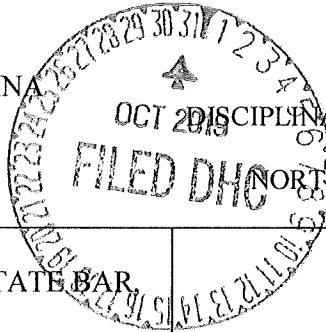


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
19 DHC 16 N

THE NORTH CAROLINA STATE BAR

Petitioner

v.

RICHARD C. POOLE, Attorney,

Respondent

CONSENT ORDER
OF NONCOMPLIANCE
SUSPENSION

THIS MATTER was considered by the Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B § .0135. Petitioner, the North Carolina State Bar, was represented by Maria J. Brown. Respondent, Richard C. Poole, appeared *pro se*. Respondent waives a formal hearing in this matter and both parties stipulate and consent to the entry of this order and to the suspension of Respondent's law license for failure to respond fully and timely to the State Bar's requests for information and to produce documents in connection with a grievance investigation.

Based upon the consent of the parties, the Chair of the Disciplinary Hearing Commission finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency 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. Respondent, Richard C. Poole ("Poole"), was licensed to practice law in North Carolina in 1980.

3. The State Bar's membership database shows the following address for Poole: 2120 E. Firetower Road, Suite 107, PMB 122, Greenville, NC 27858.

4. Poole maintains an attorney trust account at First Citizens Bank, account number ending with 2931 ("FCB 2931").

5. Until at least April 2018, Poole also maintained another attorney trust account at First Citizens Bank, account number ending with 0703 ("FCB 0703"). As of 27 April 2018, the balance in FCB 0703 was \$0.00.

6. Poole's trust accounts were subject to procedural audit by the State Bar in 2001, 2011, and 2017.

7. Each of those audits revealed multiple clients with negative balances and that Poole had not properly addressed those negative balances and reimbursed the trust account(s) if necessary.

8. The 2017 audit also revealed that Poole was not ensuring that his trust accounts were being reconciled as required by the Rules of Professional Conduct and was failing to supervise nonlawyer staff responsible for conducting the reconciliations.

9. On 2 May 2017, the State Bar opened a grievance file, no. 17G0519, to address the apparent violations of the Rules of Professional Conduct stemming from the 2017 procedural audit.

10. Poole was served with the Letter of Notice in grievance file no. 17G0519 on 10 October 2017.

11. Grievance file no. 17G0519 remains pending.

12. The investigation of grievance file no. 17G0519 gave rise to concerns about Poole's handling of entrusted funds.

13. Based on those concerns, the State Bar filed a Motion for Temporary Restraining Order and Petition for Preliminary Injunction in Wake County Superior Court on 15 April 2019. The file number associated with that action is 19 CVS 4923.

14. After a hearing on 22 April 2019, the court entered a Temporary Restraining Order and set the hearing on the State Bar's Petition for 29 April 2019.

15. The Temporary Restraining Order includes the following Findings of Fact:

- a. Poole responded to the Letter of Notice in grievance file no. 17G0519 but failed to respond fully and timely to subsequent requests for additional information and trust account records;
- b. As a result of this failure, a subpoena was issued for Poole's appearance at the State Bar;
- c. During the interview, Poole was not prepared to address issues with his trust account appearing on the face of records he had provided and indicated he would follow up; and
- d. Poole failed to provide the follow-up information he had been directed to provide as a result of the interview and failed to rectify the \$6,096.09 trust account deficit apparent on the face of his records.

16. On 29 April 2019, Poole signed, and the court entered, a Consent Order of Preliminary Injunction.

17. Paragraph 2 of the decretal portion of the Consent Order of Preliminary Injunction states: "Poole, or any other person having custody or control of records

relating to any account into which client or fiduciary funds have been deposited, shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying all of Poole's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, cancelled checks, deposit slips, client ledger cards, check stubs, deposited items and any other records relating to the receipt and disbursement of client and/or fiduciary funds, as requested by the State Bar."

18. By letter dated 8 May 2019, pursuant to the Consent Order of Preliminary Injunction and in conjunction with grievance file no. 17G0519, the State Bar asked Poole to produce certain records related to his handling of entrusted funds.

19. The 8 May 2019 letter recited a deadline of 5 p.m. on 22 May 2019 for Poole's production of the records.

20. On 16 May 2019, Poole's legal assistant, Ms. Linda Poole, notified the State Bar that she had gone to pick up records from the bank the day before, and the bank had produced records for "the wrong account."

21. Poole informed the State Bar on 29 May 2019 that the bank had provided the wrong records and he was in the process of obtaining the right records.

22. On 29 May 2019, Ms. Poole sent an email attaching a portion of what Poole had been directed to provide, to wit, a number of bank statements for account ending in 2931.

23. By letter dated 30 May 2019, pursuant to the Consent Order of Preliminary Injunction and in conjunction with grievance file no. 17G0519, the State Bar directed Poole to provide the remainder of the trust account records as recited in the letter of 8 May 2019.

24. The 30 May 2019 letter recited a deadline of 5 p.m. on 5 June 2019 for Poole's production of records.

25. On 5 June 2019, Poole produced a box of records containing some but not all of the records he had been directed to produce.

26. Poole was admitted to the hospital for a medical issue on 14 July 2019 and released on 6 August 2019.

27. By letter dated 6 September 2019, pursuant to the Consent Order of Preliminary Injunction and in conjunction with grievance file no. 17G0519, the State Bar provided Poole with a list of the records that had been demanded from him and not yet produced and directed him to produce those records.

28. The 6 September 2019 letter recited a deadline of 5 p.m. on 13 September 2019 for Poole's production of records.

29. On 13 September 2019, Poole sent an email to the State Bar requesting an additional week to produce the documents.

30. Poole had attached to his 13 September 2019 email message a PDF document he represented contained copies of bank records from First Citizens Bank. The file was damaged and could not be opened.

31. By email on 13 September 2019, the State Bar notified Poole that the file he had attached to his email could not be opened and encouraged him to continue working to produce the rest of the records even though the State Bar would not agree to refrain from acting on his noncompliance.

32. Ms. Poole reported to the State Bar on 16 September 2019 that Poole had been re-admitted to the hospital.

33. By email on 18 September 2019, Poole was directed to provide an update and documentation regarding his medical status.

34. Poole did not provide information about or documentation of his medical status.

35. On 20 September 2019, the State Bar filed a petition seeking entry of an order requiring Poole to appear and show cause why his law license should not be suspended for his noncompliance with the investigation of grievance file no. 17G0519.

36. On 20 September 2019, an Order was entered directing Poole to show cause within fourteen days why an order should not be entered suspending his law license for his noncompliance with the investigation of grievance file no. 17G0519.

37. Poole did not respond to the Order to Show Cause; however, on 23 September 2019, he provided to the State Bar a portion of the trust account records that had been demanded of him and that he had not previously provided.

38. Poole has failed to respond fully and timely to requests from the State Bar for additional information in the investigation of grievance file no. 17G0519.

39. Poole has failed to respond fully and timely to the State Bar's requests that he produce his trust account records in connection with the investigation of grievance file no. 17G0519.

40. Poole has failed to respond fully and timely to the State Bar's subpoena issued in grievance file no. 17G0519.

41. All of the records Poole has been directed to provide are records he is required to maintain pursuant to Rule 1.15-3(g) of the Rules of Professional Conduct.

42. Poole is noncompliant with the investigation of grievance file no. 17G0519 as defined in 27 N.C. Admin. Code 1B.0135(a).

43. Poole was not and is not fully in compliance with the State Bar's requests for information and documents in the investigation of grievance file no. 17G0519.

44. Poole has not fully cured all noncompliance.

45. Poole has not shown that there is good cause for his noncompliance.

Based upon the foregoing Findings of Fact and the consent of the parties, the Chair of the Disciplinary Hearing Commission makes the following

CONCLUSIONS OF LAW

1. All parties are properly before the Chair of the Disciplinary Hearing Commission, and the Disciplinary Hearing Commission has jurisdiction over Respondent, Richard C. Poole, and over the subject matter of this proceeding.

2. Respondent has been noncompliant with the investigation of grievance file no. 17G0519 as follows:

- a. Respondent has failed to respond fully and timely to requests from the State Bar for additional information in the investigation of grievance file no. 17G0519;
- b. Respondent has failed to respond fully and timely to the State Bar's requests that he produce his trust account records in connection with the investigation of grievance file no. 17G0519; and
- c. Respondent has failed to respond fully and timely to the State Bar's subpoena issued in grievance file no. 17G0519.

3. Respondent's noncompliance constitutes grounds for the suspension of his law license pursuant to 27 N.C. Admin. Code 1B.0135(e)(3) and (g).

Based upon the foregoing Findings of Fact, Conclusions of Law, and the consent of the parties, the Chair of the Disciplinary Hearing Commission enters the following

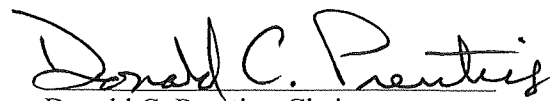
ORDER

1. Respondent, Richard C. Poole, is hereby suspended from the practice of law, effective thirty (30) days following the date this Order is served upon him.

2. Respondent shall comply with the wind-down provisions referenced in 27 N.C. Admin Code 1B.0135(h).

3. Any petition by Respondent to be reinstated to the practice of law shall be governed by 27 N.C. Admin. Code 1B.0135(i).

This the 31st day of October, 2019.


Donald C. Prentiss, Chair
Disciplinary Hearing Commission

Agreed and consented to by:



Maria J. Brown
Attorney for Petitioner

/Richard C. Poole

Richard C. Poole
Respondent