09CV013563

FILED

WAKE COUNTY

NORTH CAROLINA

IN THE GENERAL COURTS OF JUSTICE
SUPERIOR COURT DIVISION
09 CVS _____

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WAKE COUNTY, C.S.C.

BY _____

THE NORTH CAROLINA STATE BAR, PETITIONER,	)	
v.	)	CONSENT ORDER OF PRELIMINARY INJUNCTION
MARCIA Y. BURTON, ATTORNEY, RESPONDENT.	)	

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County on motion of the North Carolina State Bar. Petitioner, the North Carolina State Bar, was represented by Carmen K. Hoyme. Respondent, Marcia Y. Burton, represented herself. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Marcia Y. Burton ("Burton"), was licensed to practice law in North Carolina in 1996.

2. As of the date of this petition, Burton's last known address of record on file with the State Bar is 129 W. Trade Street, Suite 1570, Charlotte, N.C. 28202.

3. The State Bar has received information indicating that Burton has mishandled entrusted funds.

4. Burton desires to cooperate with the State Bar.

5. A need for prompt action exists to ensure that further entrusted funds are not mishandled.

BASED UPON THE FOREGOING FINDINGS OF FACT, the Court makes the following:

CONCLUSIONS OF LAW

1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Burton's trust and operating accounts and to ensure that no additional entrusted funds are mishandled.

2. Burton should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from writing checks against any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to draw a check on any account in which client or fiduciary funds have been deposited, except as expressly authorized by this order.

3. To assist the State Bar's analysis of her trust and operating accounts, Burton should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited.

THEREFORE, IT IS HEREBY ORDERED:

1. Marcia Y. Burton is enjoined from accepting or receiving any funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or drawing any checks or other instruments against any account in which client or fiduciary funds have been deposited and from directing any employee or agent to withdraw funds from and/or to draw any checks or other instruments against any account in which client or fiduciary funds have been deposited until and unless permitted by subsequent orders of the Court.

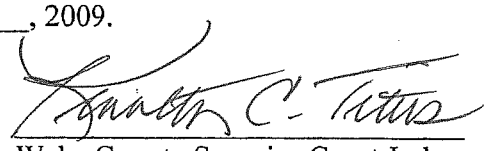
2. Marcia Y. Burton or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall, immediately upon request, produce to the North Carolina State Bar for inspection and copying all of Burton's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs and debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.

3. Marcia Y. Burton or any other person having custody or control over records relating to individuals for whom she has provided legal services shall produce to the North Carolina State Bar for inspection and copying all records and documents including but not limited to client files, billing statements, memoranda and receipts. Current client files shall be produced within 24 hours of demand by the State Bar and closed client files shall be produced within 3 days of demand by the State Bar.

4. If Burton does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Revised Rules of Professional Conduct, she shall direct the bank(s) where her bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at Burton's expense.

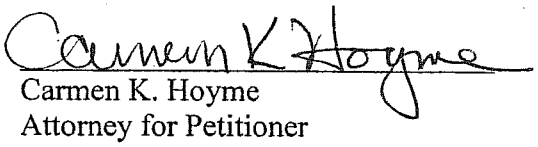
5. This Consent Order of Preliminary Injunction shall remain in effect until further orders of this Court.

THIS the 14 day of July, 2009.

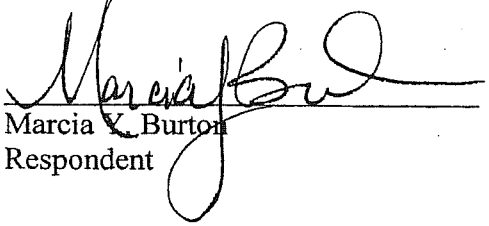


Wake County Superior Court Judge

WE CONSENT



Carmen K. Hoyme
Attorney for Petitioner
The North Carolina State Bar



Marcia K. Burton
Respondent