09CV016562

WAKE COUNTY

NORTH CAROLINA

IN THE GENERAL COURTS OF JUSTICE
SUPERIOR COURT DIVISION
09 CVS

FILED
2009 AUG 19 PM 1:58
WAKE COUNTY, C.S.C.
BY

THE NORTH CAROLINA STATE BAR, PETITIONER,	)	
v.	)	CONSENT ORDER OF PRELIMINARY INJUNCTION
ALTON Y. LENNON, RESPONDENT.	)	

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Katherine E. Jean. Respondent, Alton Y. Lennon, was represented by Stephen T. Smith. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Alton Y. Lennon ("Lennon"), was licensed to practice law in North Carolina on August 16, 1968.

2. As of the date of this petition, Lennon's last known address of record on file with the North Carolina State Bar is P. O. Drawer 59, Wilmington, North Carolina 28402.

3. The State Bar's preliminary investigation indicates that Lennon has mishandled client funds that were deposited into an attorney trust account.

4. Lennon desires to cooperate with the State Bar.

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

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 Lennon's trust and operating accounts and to ensure that client funds are not mishandled.

2. Lennon 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 or permitting any employee or agent to withdraw funds from and/or to draw any checks or other instruments upon any account in which client or fiduciary funds have been deposited until and unless expressly permitted by subsequent orders of the Court.

3. To assist the State Bar's analysis of his trust and operating accounts, Lennon should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited and with all client files requested by the State Bar as set forth below.

THEREFORE, IT IS HEREBY ORDERED:

1. Alton Y. Lennon 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 or permitting any employee or agent to withdraw funds from and/or to draw any checks or other instruments upon any account in which client or fiduciary funds have been deposited until and unless expressly permitted by subsequent orders of the Court.

2. Lennon 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 for inspection and copying all of Lennon'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, debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.

3. Lennon or any other person having custody or control over records relating to persons or entities for whom Lennon has provided legal services shall produce to the North Carolina State Bar for inspection and copying all records and documents relating to each such person or entity including but not limited to client files, billing statements, memoranda and receipts. Documents relating to current clients shall be produced within 24 hours of demand by the State Bar. Documents relating to closed client files shall be produced within 3 days of demand by the State Bar.

4. If Lennon 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 Rules of Professional Conduct, he shall direct the bank(s) where his 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 Lennon's expense.

5. Lennon shall not serve in any fiduciary capacity, including trustee, escrow agent, personal representative, executor or attorney-in-fact until and unless he is permitted to do so by order of this Court.

6. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

THIS the 19 day of AUGUST, 2009.

Superior Court Judge Presiding

WE CONSENT:

Alton Y. Lennon
Respondent

Stephen T. Smith
Attorney for Respondent

Katherine E. Jean
Attorney for Petitioner
The North Carolina State Bar