

WAKE COUNTY
NORTH CAROLINA

FILED
2010 NOV 19 PM 1:05
WAKE COUNTY, C.S.C.

IN THE GENERAL COURTS OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 10 CVS 14871

BY _____)
THE NORTH CAROLINA STATE BAR)
PETITIONER)
v.) ORDER OF
SYBIL H. BARRETT, Attorney,) PRELIMINARY INJUNCTION
RESPONDENT)
)

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County pursuant to a motion for temporary restraining order and petition for preliminary injunction filed by the North Carolina State Bar. Petitioner, the North Carolina State Bar, was represented by Leonor Bailey Hodge. Respondent, Sybil H. Barrett, failed to appear for the properly noticed hearing. At the hearing, the Court received sworn testimony from State Bar Investigator C. Fred Patton, Jr. and received into evidence six (6) marked exhibits including: (1) The Charlotte Observer Publishing Company Publisher's Affidavit, (2) Affidavit Supporting Service by Publication, (3) Response to Petitioner's Motion for Preliminary Injunction, (4) Trust Account Analysis – Bank of America IOLTA account ending in number 1892, (5) Branch Banking and Trust Company check no. 0136 drawn on account ending in number 1104 made payable to Sybil Barrett, PLLC, and (6) 2 September 2010 letter from Respondent to counsel for Petitioner. Based upon the verified petition and motion with attachments and the evidence introduced at the hearing, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Sybil H. Barrett ("Barrett"), was licensed to practice law in North Carolina in 2003.
2. On 8 July 2010, the North Carolina State Bar attempted to serve Barrett with a Letter of Notice and Subpoena for Cause Audit by certified mail addressed to Barrett at the address of record provided by her to the State Bar. This letter was returned to the State Bar as undeliverable as addressed.
3. After additional investigation, the State Bar determined that the address of Barrett's personal residence is 10828 Fountaingrove Road, Charlotte, NC. On 4 August 2010, a State Bar investigator attempted to serve Barrett at her personal residence but was unsuccessful in this attempt.

4. On 23 August 2010, Barrett accepted service of the Letter of Notice and Subpoena for Cause Audit when she appeared for a duly noticed deposition in another matter. However, Barrett refused to sign a release authorizing the State Bar to obtain her trust account bank records.

5. On 26 August 2010, Barrett sent an "Objection to Subpoena for Cause Audit" to the Office of Counsel indicating her objection to providing the bank records sought pursuant to the Bar Subpoena for Cause Audit.

6. The State Bar's investigation indicates that during a real estate closing on 27 January 2009 Barrett collected \$1,675.19 from seller Adam Ciarla to pay 2008 Mecklenburg County property taxes and then failed to pay these property taxes. As of 30 June 2010 these property taxes were still unpaid. Barrett had two (2) trust accounts: (i) Bank of America trust account ending in no. 1892, and (ii) Wachovia Bank trust account ending in no. 2141. Barrett's Bank of America trust account was closed on 31 January 2010 with an average daily balance of \$417.96 which is less than \$1,675.19. The average daily balance in Barrett's Wachovia Bank trust account did not exceed \$302.03 which is less than \$1,675.19.

7. State Bar Investigator C. Fred Patton, Jr. personally interviewed Adam Ciarla. Mr. Ciarla informed Investigator Patton that Mr. Ciarla handles the finances for him and Maria Ciarla and that neither he nor Maria Ciarla paid on 25 August 2010 and 26 August 2010 the principal tax amount due nor did they pay interest upon the same. Furthermore, testimony shows that the sums paid to the Mecklenburg County Tax Collector's Office on 25 August 2010 and 26 August 2010 were paid in cash. C. Fred Patton, Jr. testified that Adam Ciarla stated that Mr. Ciarla would have made any such payment of taxes by check had he paid it. The Ciarlas' checking account showed no such disbursement to the Mecklenburg County Tax Collector's Office. This raises a legitimate question with the Court as to whether an individual posing as the Ciarlas paid these amounts in cash in order to terminate any further inquiry by the Ciarlas, Ms. Brooksbank or the State Bar.

8. The foregoing facts establish that funds held in trust by Barrett have been mishandled in violation of Rule 1.15-2 of the Rules Professional Conduct.

9. A need for prompt action exists to ensure that any additional client funds entrusted to Barrett are not mishandled to the client's detriment.

BASED UPON THE FOREGOING FINDINGS, 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 Barrett's trust accounts and to ensure that no client funds are mishandled.

2. Barrett should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from withdrawing funds from and/or writing checks 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 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, Barrett should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited. Barrett shall provide the North Carolina State Bar with all records of all accounts in which client or fiduciary funds were deposited.

4. Barrett should not be permitted to serve in any fiduciary capacity, including trustee, escrow agent, personal representative, executor or attorney-in-fact until further order of this Court

THEREFORE, IT IS HEREBY ORDERED:

1. Sybil Helena Barrett is enjoined from accepting any further funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or writing any checks 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 draw a check on any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court.

2. Sybil Helena Barrett or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall, upon request, immediately produce to the North Carolina State Bar for inspection and copying all of Barrett's financial records relating to such accounts 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. If Barrett 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, she shall direct the bank(s) where her trust account(s) (and all other accounts) 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 Barrett's expense.

4. Sybil Helena Barrett, or any other person having custody or control over records relating to individuals for whom Barrett 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.

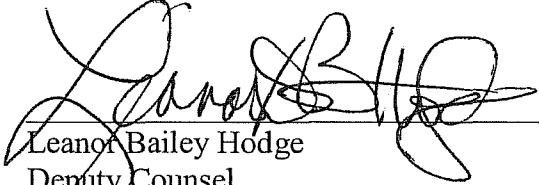
CERTIFICATE OF SERVICE

This is to certify that the foregoing Order of Preliminary Injunction for Sybil H. Barrett was hereby served on Defendant via certified U.S. mail, postage pre-paid to the following addresses:

Sybil H. Barrett
10828 Fountain Grove Drive
Charlotte, NC 28262

Sybil H. Barrett
P.O. Box 560794
Charlotte, NC 28256

This the 19th day of November, 2010.



Leanon Bailey Hodge
Deputy Counsel
The North Carolina State Bar

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NORTH CAROLINA

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THE NORTH CAROLINA STATE BAR
PETITIONER

v.

SYBIL H. BARRETT, Attorney,
RESPONDENT

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AMENDED CERTIFICATE
OF SERVICE
FOR ORDER OF
PRELIMINARY INJUNCTION

This is to certify that the foregoing Order of Preliminary Injunction for Sybil H. Barrett was hereby served on Defendant via U.S. mail, postage pre-paid to the following addresses, not by certified mail as indicated on the original Certificate of Service.

Sybil H. Barrett
10828 Fountain Grove Drive
Charlotte, NC 28262

Sybil H. Barrett
P.O. Box 560794
Charlotte, NC 28256

This the 19th day of November, 2010.



Leann Bailey Hodge
Deputy Counsel
The North Carolina State Bar