

FILED

STATE OF NORTH CAROLINA IS FILED IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION
 WAKE COUNTY FILE NO.: 11 CVS 7694

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

DON S. NEILL, Attorney,

Respondent

CONSENT ORDER OF
 PRELIMINARY INJUNCTION

THIS MATTER came on for consideration by the undersigned Judge of Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Jennifer A. Porter. Respondent, Don S. Neill, was represented by Alan M. Schneider. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Don S. Neill ("Neill"), was licensed to practice law in North Carolina in 1975.
2. The State Bar's membership database shows the following address for Neill: 222 Third Avenue West, Hendersonville, NC 28739.
3. Neill has served as trustee for a trust and has also maintained at least one attorney trust account.
4. Neill has admitted that he misappropriated entrusted funds.
5. Neill desires to cooperate with the State Bar.
6. 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 and to ensure that no entrusted or fiduciary funds are mishandled.

2. Neill 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 his trust and operating accounts and his handling of entrusted funds, Neill should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited as requested by the State Bar, should records in addition to what he has already provided be required by the State Bar.

THEREFORE, IT IS HEREBY ORDERED:

1. Don S. Neill 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. Attachment A contains a list of outstanding checks that shall be allowed to clear and payment made by the applicable financial institutions. No other checks from any account of Neill's, or associated with Neill, that contains fiduciary, client or other entrusted funds shall be allowed to clear or payment made after the filing of this order.

3. Neill is enjoined from serving in any fiduciary capacity, including trustee, escrow agent, settlement agent, personal representative, executor or attorney-in-fact, until further order of this Court.

4. Neill or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall produce to the North Carolina State Bar for inspection and copying all of Neill'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, as requested by the State Bar.

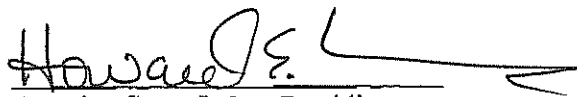
5. Neill or any other person having custody or control of records relating to any account into which mishandled client or fiduciary funds have been deposited shall produce to the North Carolina State Bar for inspection and copying all of Neill's financial records relating to any account into which mishandled 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, as requested by the State Bar.

6. Neill or any other person having custody or control over records relating to individuals for whom he has provided legal or fiduciary 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, as requested by the State Bar. 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.

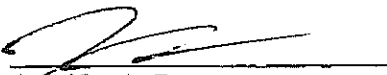
7. If Neill does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct, he shall direct the bank(s) where his bank account(s) are maintained, within 10 days of the date of any State Bar request,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

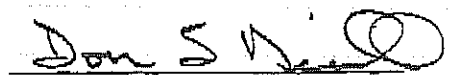
8. This Consent Order of Preliminary Injunction shall remain in effect until further orders of this Court.


THIS the 16th day of MAY, 2011.


Superior Court Judge, Presiding

WE CONSENT:


Jennifer A. Porter
Deputy Counsel
Attorney for Petitioner


Don S. Neill
Respondent


Alan M. Schneider
Attorney for Respondent

ATTACHMENT A

Bank	Account number	Check number	Payee	Amount	Client for whom funds disbursed
HOME TRUST	870469	4346	Investor's Title	50.00	McGraw
		4351	Home Trust Bank	200.00	Carrage Park
		4353	Investor's Title	242.50	Carrage Park
		4359	Nijya Law, LLC	0.47	Nijya Law
		4361	Investor's Title	82.00	Nijya Law
		4363	Investor's Exchange	750.00	Nijya Law
		4364	Van Vinkle	1800.00	Nijya Law
		4367	Investor's Title	557.00	Nijya Law
		4368	Buncombe City Reg.	701.00	Nijya Law
		4369	Buncombe County	105.00	Nijya Law
		4371	Hendersonville Health	6429.68	Positive
		4377	Citizens	94,967.49	Change
		4378	Home Trust Bank	99,769.26	Change
		4379	Home Trust Bank	3571.65	Change
		4380	Investor's Title	260.50	Change
		4381	Anderson County	54.00	Change

I hereby certify that the above listed checks were written to disburse funds for clients for whom I had sufficient funds in the identified account from which to make each such disbursement. I certify that the above listed disbursements are for legitimate client expenses for the benefit of the clients.

Wang, 16, 2011
Date

Don S. Neill