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

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WAKE COUNTY, C.S.C.
BY

THE NORTH CAROLINA STATE BAR, Petitioner v. ROBERT J. CLEMENTS, II, 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 Mary D. Winstead. Respondent, Robert J. Clements, II, represented himself. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Robert J. Clements, II ("Clements"), was licensed to practice law in North Carolina in 1999.

2. The State Bar's membership database shows the following address for Clements: P. O. Box 1747, Raleigh, NC, 27602.

3. Clements has maintained at least one attorney trust account.

4. Clements has admitted that a client is entitled to a refund of $1325.60 which is the unearned portion of his retainer and has represented that this money is "in trust."

5. Despite repeated requests from the State Bar, Clements has not produced the trust account records that would enable the State Bar to determine whether this client's funds have been properly preserved in the trust account.

6. Clements desires to cooperate with the State Bar.

7. A need for prompt action exists to ensure that 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. Clements 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, Clements 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 by required by the State Bar.

THEREFORE, IT IS HEREBY ORDERED:

1. Robert J. Clements, II 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. Clements 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.

3. Clements 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 at its location in Raleigh, NC for inspection and copying all of Clements'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.

4. Clements 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 at its location in Raleigh, NC for inspection and copying all of Clements'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.

5. Clements 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 at its location in Raleigh, NC 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.

6. If Clements 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 Clements's expense.

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

THIS the 17 day of November, 2011.

Ronald W Stephens
Superior Court Judge, Presiding

WE CONSENT:

Mary D. Winstead
Deputy Counsel
Attorney for Petitioner

Robert J. Clements, II
Respondent