

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 12 CVS 01903

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

SEAN NELSON ROGERS WELLS
Attorney,

Respondent

TEMPORARY RESTRAINING
ORDER

FILED
FEB -8 PM 2:09
WAKE COUNTY, C.S.C.

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 Jennifer A. Porter. The Respondent, Sean Nelson Rogers Wells, did not appear and was not represented. Based upon the Motion and the affidavit attached thereto, the Court makes the following:

FINDINGS OF FACT

1. Respondent, Sean Nelson Rogers Wells ("Wells"), was licensed to practice law in North Carolina in 2006.
2. The State Bar's membership database shows the following address for Wells: P.O. Box 659, Swansboro, NC 28584.
3. Wells maintained an attorney trust account, account number ending with 0559, at Bank of America.
4. Wells was audited by the State Bar as part of its random audit program on December 8, 2010. The audit disclosed several trust account record-keeping deficiencies, including failing to maintain client ledgers and failing to conduct the requisite monthly and quarterly reconciliations of his trust account.
5. The State Bar auditor required Wells to provide a trust account reconciliation for November 2010 with supporting documentation along with assurances that the other deficiencies noted in the audit report were corrected.
6. Although Wells provided certain bank records and created transaction ledgers for some of the activity in his trust account, he failed to provide a reconciliation and the ledgers he provided did not constitute client ledgers as required by Rule 1.15-3(b)(5).

7. The auditor communicated to Wells that what he had produced was not sufficient and requested additional documents. Wells failed to respond.

8. The State Bar subsequently attempted to communicate with Wells by telephone, by formal inquiry, and by subpoena, as set out in more detail in the attached affidavit. Wells failed to respond to all communications from the State Bar and failed to appear and comply with the subpoena served upon him.

9. Analysis of the bank records Wells had previously provided to the State Bar auditor revealed that Wells disbursed to himself from the trust account several checks purportedly attributed to certain transactions but in which he had already received his fee.

10. These records combined with Wells' repeated failures to respond to the State Bar indicate that Wells misappropriated funds from his trust account.

11. A need for prompt action exists to ensure that further client funds are not mishandled in the future.

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 Wells' trust, operating and personal bank accounts and to ensure that no further client funds are mishandled.

2. Wells 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 or withdrawing funds from any account in which client or fiduciary funds have been deposited, and from directing any employee or agent to write a check against or withdraw funds from 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, Wells 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.

4. Wells should be prohibited from serving as a trustee, attorney-in-fact, executor, personal representative or in any other fiduciary capacity.

THEREFORE, IT IS HEREBY ORDERED:

1. Sean Nelson Rogers Wells 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 write a check against any account in which client or fiduciary funds have been deposited until permitted by subsequent orders of the Court.

2. This matter is scheduled for a hearing on the Petitioner's Petition for a Preliminary Injunction on the 20th day of February, 2012 at 10:00 A.M in the Wake County Courthouse, Courtroom 10-C in Raleigh, North Carolina.

3. Wells, 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 at its Raleigh, North Carolina location for inspection and copying all of Wells' 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, deposited items 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.

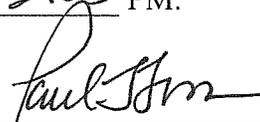
4. Wells, or any other person having custody or control over records relating to individuals for whom Wells has provided legal services, shall produce to the North Carolina State Bar at its Raleigh, North Carolina location for inspection and copying all records and documents including but not limited 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.

5. If Wells 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 trust and operating 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 its Raleigh, North Carolina location, at Wells' expense.

6. Wells is hereby enjoined from serving as an attorney-in-fact, trustee, executor, personal representative or in any other fiduciary capacity.

7. This Temporary Restraining Order shall remain in effect until the 20th day of February 2012 unless extended by further orders of this Court.

THIS the 8 day of February, 2012 at 2:03 PM.



Wake County Superior Court Judge
Presiding