13CV014954

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 13 CVS _____

THE NORTH CAROLINA STATE BAR, Petitioner v. JAMES GARFIELD WILLIAMS, Attorney, Respondent	CONSENT ORDER OF PRELIMINARY INJUNCTION

FILED
2013 NOV -6 PM 1:02
WAKE COUNTY, C.S.C.
BY

THIS MATTER came on for consideration by the undersigned Judge of the Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Margaret T. Cloutier. Respondent, James Garfield Williams, is represented by Dudley A. Witt. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Respondent, James Garfield Williams ("Williams"), was licensed to practice law in North Carolina in 2004.

3. The State Bar's membership database shows the following address for Williams: 11234 N. Main Street, Suite 310, Southern Centre Bldg., Archdale, NC 27263.

4. The State Bar has received information indicating a staff member of Williams' firm has mishandled entrusted funds.

5. Williams desires to cooperate with the North Carolina State Bar.

6. A need for prompt action exists to ensure that further entrusted 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 Williams' trust, operating and personal bank accounts and to ensure that no further client funds are mishandled.

2. Williams 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 accounts, Williams 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. To assist the State Bar's analysis of his trust accounts, Williams should provide the State Bar with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

5. Williams 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. James Garfield Williams 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. Williams, 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 Williams' 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.

3. Williams, or any other person having custody or control over records relating to individuals for whom Williams 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.

4. If Williams 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 Williams' expense.

5. Williams shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location the monthly and quarterly reconciliation reports for any and all trust accounts that he is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct. If Williams has not prepared such reports as required, Williams is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.

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

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

THIS the 6 day of November, 2013.

Wake County Superior Court Judge
Presiding

WE CONSENT:

Margaret T. Cloutier
Attorney for the Petitioner
The North Carolina State Bar

James Garfield Williams
Respondent

Dudley A. Witt
Attorney for Respondent