

WAKE COUNTY  
NORTH CAROLINA

2007-06-11 12:57

IN THE GENERAL COURTS OF JUSTICE  
SUPERIOR COURT DIVISION  
10 CVS 4279

THE NORTH CAROLINA STATE BAR,  
PETITIONER,

v.

TRACY H. BARLEY,  
RESPONDENT.

CONSENT ORDER OF  
DISBARMENT

THIS MATTER came before the undersigned Judge of Superior Court of Wake County. Petitioner, the North Carolina State Bar, was represented by Brian P.D. Oten. Respondent, Tracy H. Barley, represented herself.

Based upon the Affidavit of Surrender of Law License submitted to the Court by Respondent, Tracy H. Barley, and the consent of the parties, the Court makes the following:

#### FINDINGS OF FACT

1. Respondent, Tracy H. Barley ("Barley"), was licensed to practice law in North Carolina on August 20, 1993 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
2. During the periods relevant hereto, Barley was engaged in the practice of law in Durham, North Carolina.
3. In December 2003, Barley conducted a re-financing transaction for a client through which Barley received and deposited into her attorney trust account the sum of \$88,787.05 belonging to her client. Barley was instructed by her client to deliver these funds to Chase Manhattan Mortgage Corporation in order to pay in full her client's mortgage for her residence. Barley did not deliver the entrusted funds as directed by her client.
4. Barley never paid off her client's Chase Manhattan Mortgage, but instead paid her client's monthly mortgage payment to Chase Manhattan from January 2004 to the present.
5. From at least April 2003 through March 2006, Barley knowingly and intentionally misappropriated funds entrusted to her in connection with at least seventeen

real estate transactions by not immediately disbursing loan proceeds as instructed by her clients. The delays in payment ranged from 7 days to over 2,450 days after the dates the loan proceeds were delivered and entrusted to her. Barley utilized funds held in trust for some clients to cover funds that she had misappropriated from other clients. Barley utilized entrusted funds for her own personal benefit or for the benefit of third parties without authorization to do so from the beneficial owners of the funds.

6. Barley misappropriated entrusted funds totaling at least \$53,275.44. Barley never replenished these misappropriated funds.

7. Barley did not maintain adequate trust account records from the period of at least January 2003 through the present, and Barley did not report the aforementioned misappropriation as required by the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and the consent of the parties, the Court makes the following

#### CONCLUSIONS OF LAW

1. By misappropriating client funds from her trust account, Barley used entrusted funds for her personal benefit or for the benefit of third parties not entitled to the funds in violation of Rules 1.15-2(a) and (j) of the Rules of Professional Conduct, failed to report her misappropriation of client funds in violation of Rule 1.15-2(o) of the Rules of Professional Conduct, failed to maintain adequate trust account records in violation of Rules 1.15-3(b) and (d) of the Rules of Professional Conduct, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) of the Rules of Professional Conduct.

2. Barley's misconduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2).

3. The courts of this State have inherent authority to take disciplinary action against attorneys licensed to practice law in North Carolina.

4. This Court has jurisdiction over the person of Tracy H. Barley and over the subject matter of this proceeding.

5. Barley has engaged in professional misconduct warranting disbarment.

#### IT IS NOW, THEREFORE, ORDERED:

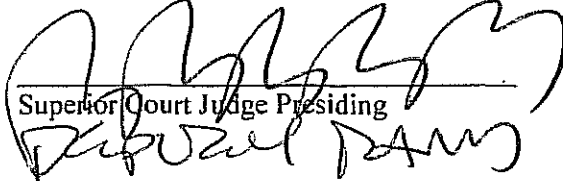
1. Tracy H. Barley is DISBARRED from the practice of law in North Carolina.

2. Barley shall comply with the provisions of 27 N.C. Admin. Code, Chapter 1, Subchapter B, Section .0124 of the Rules and Regulations of the North Carolina State Bar


and shall surrender her license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by § .0124. Barley shall have thirty (30) days from the date of the entry of this order to complete the requirements of § .0124.

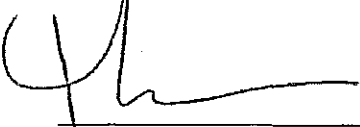
3. The costs of this action are taxed against Barley.

Dated this 16<sup>th</sup> day of October, 2010.

  
Superior Court Judge Presiding

CONSENTED TO:

  
\_\_\_\_\_  
Brian P.D. Oten  
Deputy Counsel, North Carolina State Bar  
Attorney for Petitioner

  
\_\_\_\_\_  
Tracy H. Barley  
Respondent

STATE OF NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO.: 10 CVS 004279

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

TRACY H. BARLEY, Attorney,

Respondent

AFFIDAVIT OF SURRENDER OF  
LAW LICENSE

Tracy H. Barley, being first duly sworn, deposes and says as follows:

1. I desire to resign and hereby tender my license to practice law in North Carolina.
2. My resignation is freely and voluntarily rendered. It is not the result of coercion or duress. I am fully aware of the implication of submitting my resignation.
3. In December 2003, I conducted a re-financing transaction for a client through which I received and deposited into my attorney trust account the sum of \$88,787.05 belonging to my client. I was instructed by my client to deliver these funds to Chase Manhattan Mortgage Corporation in order to pay in full my client's mortgage for her residence. I did not deliver the entrusted funds as directed by my client.
4. I never paid off my client's Chase Manhattan Mortgage, but instead paid my client's monthly mortgage payment to Chase Manhattan from January 2004 to the present.
5. From at least April 2003 through March 2006, I knowingly and intentionally misappropriated funds entrusted to me in connection with at least seventeen real estate transactions by not immediately disbursing loan proceeds as instructed by my clients. The delays in payment ranged from 7 days to over 2,450 days after the dates the loan proceeds were delivered and entrusted to me. I utilized funds held in trust by me for some clients to cover funds that I had misappropriated from other clients. I utilized entrusted funds for my own personal benefit or for the benefit of third parties without authorization to do so from the beneficial owners of the funds.
6. I misappropriated entrusted funds totaling at least \$53,275.44. I never replenished these misappropriated funds.
7. I did not maintain adequate trust account records from the period of at least January 2003 through the present, and I did not report the aforementioned misappropriation as required by the Rules of Professional Conduct.

8. I am aware that there is presently pending an investigation with the North Carolina State Bar regarding my conduct as described above.

9. I acknowledge that the material facts upon which the investigation is predicated are true.

10. I am submitting my resignation because I know that if disciplinary charges were predicated upon the misconduct under investigation, I could not successfully defend against them.

This the 1 day of October, 2010.

Sworn to and subscribed before me,  
this the 1st day of October, 2010.

Heather A Page  
Notary Public

My commission expires: 10/2/13

Tracy H. Barley  
Tracy H. Barley

