

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE COUNCIL
OF THE
NORTH CAROLINA STATE BAR
15 BCS 2

IN THE MATTER OF THE TENDER
OF SURRENDER OF LICENSE OF

THOMAS F. FOSTER

ORDER OF DISBARMENT

THIS MATTER coming on to be heard and being heard by the Council of the North Carolina State Bar pursuant to 27 N.C. Admin. Code, Chapter 1, Subchapter B, § .0117(a) of the State Bar Discipline & Disability Rules upon tender of an affidavit of surrender of license executed by Thomas F. Foster (“Foster”) on April 8, 2015 and filed in the offices of the North Carolina State Bar on April 13, 2015.

Based upon the affidavit, the Council finds that Thomas F. Foster misappropriated fiduciary funds and failed to file and pay federal and state income taxes, in violation of Rules 8.4(b) and 8.4(c) of the Rules of Professional Conduct. Thomas F. Foster’s conduct is grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2).

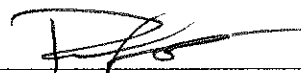
WHEREFORE, upon motion made and duly seconded, the Council enters the following Order:

1. The tender of surrender of license of Thomas F. Foster is hereby accepted.
2. Thomas F. Foster is hereby DISBARRED from the practice of law in North Carolina.
3. Foster shall comply with the provisions of 27 N.C. Admin. Code, Chapter 1, Subchapter B, § .0124 of the State Bar Discipline & Disability Rules. Foster shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by § .0124 of the State Bar Discipline & Disability Rules within ten (10) days after the expiration of the wind-down period provided under § .0117(e).
4. The administrative fees and costs of this action are taxed against Foster.
5. Foster shall comply with the reinstatement provisions of 27 N.C. Admin. Code, Chapter 1, Subchapter B, § .0125 and as a condition precedent to reinstatement shall reimburse all misappropriated fiduciary funds in the amounts and to the

recipients determined by the Disciplinary Hearing Commission upon consideration of his petition for reinstatement.

6. Within 15 days of the effective date of this Order Foster shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Foster and obtain such files.
7. Foster shall promptly return client files in his possession, custody, or control to clients upon request, within 5 days of receipt of such request. Foster will be deemed to have received any such request 3 days after the date such request is sent to Foster if the request is sent to the address Foster provided the State Bar pursuant to the preceding paragraph.

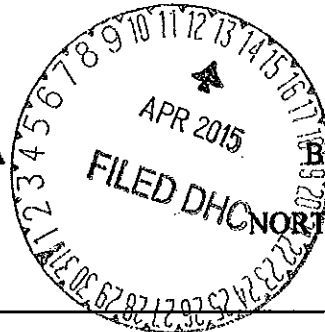
Done and ordered this 17th day of April, 2015.



Ronald L. Gibson, President
North Carolina State Bar

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE COUNCIL
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15 BCS 2

**AFFIDAVIT TENDERING THE SURRENDER OF THE LICENSE OF
THOMAS F. FOSTER**

I, Thomas F. Foster being first duly sworn, say:

1. I desire to resign and hereby tender my license to practice law in North Carolina pursuant to the provisions of Section .0117 of the North Carolina State Bar Discipline and Disability Rules, 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0117.
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. I am aware that there is presently pending an investigation regarding allegations that I misappropriated in excess of \$250,000.00 of fiduciary funds. The misappropriated funds include funds taken without authority for commissions, for which I filed motions to approve but for which no required court order was entered approving those disbursements. The misappropriated funds also include funds taken in excess of earned fees and commissions. I am aware the investigation also includes allegations that I failed to file timely and pay federal and state income taxes.
4. I acknowledge that the material facts upon which the investigation is predicated are true.
5. My resignation is being submitted because I know that if charges were predicated upon the misconduct under investigation, I could not successfully defend against them.
6. I understand that the hearing by the Council of the North Carolina State Bar with regard to the acceptance of the tender of surrender of my license to practice law will occur at the regularly scheduled meeting of the Council of the North Carolina State Bar on Friday, April 17, 2015 at the North Carolina State Bar building in Raleigh, North Carolina.
7. I hereby waive any further notice of the hearing before the Council on my affidavit of surrender. I waive any claim, argument, or assertion that I have not received proper or timely notice of the hearing before the Council on my affidavit of surrender or any other defect in notice. I further waive any and all right or privilege to appear before the Council at that hearing.

(CONTINUED ON NEXT PAGE)

8. I affirm that I have had a full opportunity to seek the advice and counsel of an attorney in filing my Affidavit of Surrender and in waiving any rights set forth herein.

Respectfully submitted, this the 8th day of April, 2015.


Thomas F. Foster

I, Ramona C. Newby, Notary Public of the County of Randolph, State of North Carolina, certify that Thomas F. Foster personally appeared before me this day, was sworn, attested that the foregoing Affidavit is true and accurate of his own personal knowledge, and executed the foregoing Affidavit.

This the 8th day of April, 2015

Ramona C. Newby
Notary Public
(print name) RAMONA C. NEWBY

My commission expires: 8/8/2019

