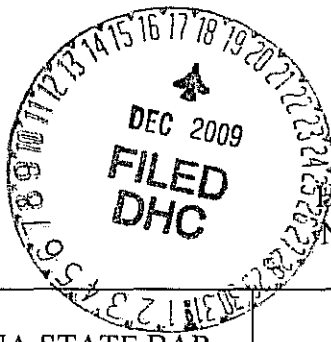


NORTH CAROLINA
WAKE COUNTY



BEFORE THE DISCIPLINARY
HEARING COMMISSION OF THE
NORTH CAROLINA STATE BAR
09 DHC 20

THE NORTH CAROLINA STATE BAR,

Petitioner

v.

HILTON STUART MITCHELL, Attorney,

Respondent

ORDER
OF
DISBARMENT

THIS MATTER coming before the undersigned Chair of the Disciplinary Hearing Commission pursuant to N.C. Admin. Code title 27, Rule 1B.0117(d) upon an affidavit of surrender of license executed by Hilton Stuart Mitchell ("Mitchell") dated December 10, 2009 and filed in the offices of the North Carolina State Bar on December 11, 2009.

Based upon the pleadings and the record, the undersigned makes the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar, is a body 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 promulgated thereunder.

2. Defendant was licensed to practice law in North Carolina on August 27, 2002.

3. During all periods relevant hereto, Defendant was engaged in the practice of law in North Carolina.

4. Defendant has indicated his consent to disbarment by filing an affidavit of surrender with the Disciplinary Hearing Commission. The affidavit meets all requirements set forth in N.C. Admin. Code title 27, Rule 1B.0117(a)(1) through (4), and (d).

Based upon the foregoing Findings of Fact the undersigned makes the following:

CONCLUSIONS OF LAW

1. N. C. Admin. Code title 27, Rule 1B.0108 provides that the Chair of the Disciplinary Hearing Commission has the power to enter orders disbarring members by consent.

2. Defendant's affidavit meets all requirements set forth in N.C. Admin. Code title 27, Rule 1B.0117(a)(1) through (4), and (d), and the facts on which the affidavit is predicated warrant Defendant's disbarment.

3. Defendant has admitted the material facts as alleged in the State Bar's complaint, incorporated herein by reference, and the misconduct alleged in the complaint has been established.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned Chair of the Disciplinary Hearing Commission enters the following:

ORDER

1. The surrender of the license of Hilton Stuart Mitchell is hereby accepted.

2. Hilton Stuart Mitchell is DISBARRED from the practice of law in North Carolina effective upon the entry of this order with the Secretary of the North Carolina State Bar.

3. Hilton Stuart Mitchell shall comply with the provisions of N.C. Admin. Code title 27, Rule 1B.0124 of the State Bar Discipline and Disability Rules.

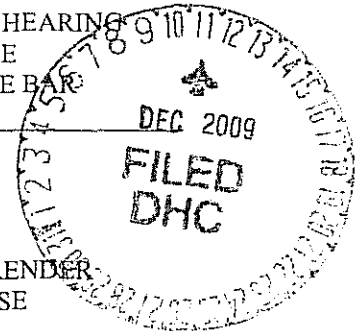
4. The costs of this action are taxed against the Defendant.

Done and Ordered this 18th day of December, 2009.

F. Lane Williamson
F. Lane Williamson, Chair
Disciplinary Hearing Commission

NORTH CAROLINA
WAKE COUNTY

BEFORE THE DISCIPLINARY HEARING
COMMISSION OF THE
NORTH CAROLINA STATE BAR
09 DHC 20



THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

HILTON STUART MITCHELL, Attorney,

Defendant

AFFIDAVIT OF SURRENDER
OF LAW LICENSE

HILTON STUART MITCHELL, 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 pursuant to State Bar Discipline & Disability Rule 27 NCAC 1B.0117.
2. My resignation is freely and voluntarily rendered, and is not the result of coercion or duress. I am represented by counsel and I am fully aware of the implications of submitting my resignation.
3. I am aware that there is a formal complaint against me filed by the State Bar before the Disciplinary Hearing Commission alleging that I have been guilty of misconduct by misappropriating funds from the law firm by which I was employed by accepting direct payment of \$21,665 in legal fees owed to the firm to which fees I was not entitled, and depositing said fees into my personal bank account rather than forwarding the fees to the firm. The amended complaint is incorporated herein by reference and a copy of it is attached hereto as Exhibit A.
4. I acknowledge that the material facts alleged in the amended complaint are true.
5. I am submitting my resignation because I know that I cannot successfully defend against the charges in the complaint.

This the 10th day of DECEMBER, 2009.

Hilton Stuart Mitchell

I, Gina M. Wells, Notary Public of the County of Brunswick, State of North Carolina, certify that Hilton Stuart Mitchell personally appeared before me this day, was sworn, attested that the foregoing Affidavit is true and accurate of her own personal knowledge, and executed the foregoing Affidavit.

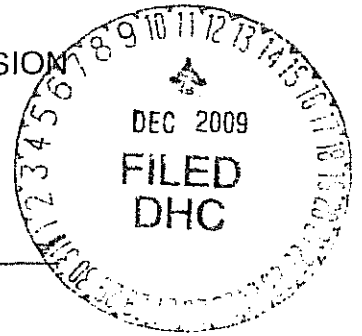
This the 10th day of December, 2009.

Notary Public

My Commission Expires: 6/15/2013

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 20



THE NORTH CAROLINA STATE BAR,)
Plaintiff)

v.)

HILTON STUART MITCHELL, Attorney,)
Defendant)

AMENDED COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar (hereinafter "State Bar"), is a body 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 promulgated thereunder.

2. Defendant, Hilton Stuart Mitchell (hereinafter "Defendant"), was admitted to the North Carolina State Bar on August 27, 2002 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.

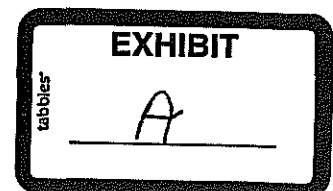
Upon information and belief, the State Bar alleges:

3. During the times relevant herein, Defendant actively engaged in the practice of law and worked at the law firm of Brock & Scott ("the Firm") in Wilmington, New Hanover County, North Carolina.

4. Defendant was an associate at the Firm and never held any partnership, membership or ownership interest in the Firm.

5. Defendant was never entitled to share in the income or profits of the Firm.

6. All legal fees that Defendant received from any client while employed at the Firm were the property of the Firm.



FIRST CLAIM FOR RELIEF

7. The allegations of paragraphs 1-6 are incorporated herein by reference as if fully set forth herein.

8. On or about July 17, 2008 Defendant deposited into his personal bank account a check in the amount of \$3,000 from Kathleen Intiso.

9. The check was for payment of legal fees that were owed to the Firm for Defendant's representation of James Intiso and the proceeds of the check were the property of the Firm.

10. Defendant did not inform the Firm about the \$3,000 payment from Ms. Intiso.

11. Defendant did not have permission from the Firm to accept direct payment of the Firm's fees from Ms. Intiso nor did he have permission to use the funds for his personal benefit.

12. On or about August 27, 2008 Defendant deposited into his personal bank account a check in the amount of \$3,000 from Kathleen Intiso.

13. The check was for payment of legal fees that were owed to the Firm for Defendant's representation of James Intiso and the proceeds of the check were the property of the Firm.

14. Defendant did not have permission from the Firm to accept direct payment of the Firm's fees from Ms. Intiso nor did he have permission to use them for his personal benefit.

15. Defendant used the \$6,000 from Ms. Intiso that he deposited into his personal bank account for his personal benefit.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- a. by depositing each of the \$3,000 payments for legal fees from Kathleen Intiso into his personal bank account rather than forwarding them to the Firm, Defendant used entrusted property for the benefit of someone other than the legal or beneficial owner of that property in violation of Rule 1.15-2 (j) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

SECOND CLAIM FOR RELIEF

16. The allegations of paragraphs 1-15 are incorporated herein by reference as if fully set forth herein.

17. On or about August 29, 2008, Defendant deposited into his personal bank account a check in the amount of \$2,000 from Seahawk Properties, LLC.

18. The check was for payment of legal fees that were owed to the Firm for Defendant's representation of Archie S. Raynor and the proceeds of the check were the property of the Firm.

19. Defendant did not inform the Firm about the \$2,000 payment from Seahawk Properties, LLC.

20. Defendant did not have permission from the Firm to accept direct payment of the Firm's legal fees from Seahawk, LLC nor did he have permission to use the funds for his personal benefit.

21. Defendant used the \$2,000 from Seahawk, LLC that he deposited into his personal bank account for his own personal benefit.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- a. by depositing the \$2,000 payment for legal fees from Seahawk, LLC into his personal bank account rather than forwarding it to the Firm, Defendant used entrusted property for the benefit of someone other than the legal or beneficial owner of that property in violation of Rule 1.15-2 (j) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

THIRD CLAIM FOR RELIEF

22. The allegations of paragraphs 1-21 are incorporated herein by reference as if fully set forth herein.

23. On or about April 9, 2007 Defendant deposited into his personal bank account a check in the amount of \$15,000 from Coastal Estates, Inc.

24. The check was payment of legal fees that were owed to the Firm for Defendant's representation of Otto K. Pridgen, III and the proceeds of the check were the property of the Firm.

25. Defendant did not inform the Firm about the \$15,000 payment from Coastal Estates, Inc.

26. Defendant did not have permission from the Firm to accept direct payment of the Firm's fees from Coastal Estates, Inc. nor did he have permission to use the funds for his personal benefit.

27. On or about June 25, 2007 Defendant deposited into his personal bank account a check in the amount of \$225 from Coastal Estates, Inc.

28. The check was payment of legal fees that were owed to the Firm for Defendant's representation of Otto K. Pridgen, III and the proceeds of the check were the property of the Firm.

29. Defendant did not inform the Firm about the \$225 payment from Coastal Estates, Inc.

30. Defendant did not have permission from the Firm to accept direct payment of the Firm's fees from Coastal Estates, Inc. nor did he have permission to use the funds for his personal benefit.

31. On or about April 25, 2008 Defendant deposited into his personal bank account a check in the amount of \$250 from Coastal Estates, Inc.

32. The check was payment of legal fees that were owed to the Firm for Defendant's representation of Otto K. Pridgen, III and the proceeds of the check were the property of the Firm.

33. Defendant did not inform the Firm about the \$250 payment from Coastal Estates, Inc.

34. Defendant did not have permission from the Firm to accept direct payment of the Firm's fees from Coastal Estates, Inc. nor did he have permission to use the funds for his personal benefit.

35. Defendant used the \$15,475 from Coastal Estates, Inc. that he deposited into his personal bank account for his personal benefit.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- a. by depositing the \$15,475 payment for legal fees from Coastal Estates, Inc. into his personal bank account rather than forwarding it to the Firm, Defendant used entrusted property for the benefit of someone other than the legal or beneficial owner of that property in violation of Rule 1.15-2 (j) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

FOURTH CLAIM FOR RELIEF

36. The allegations of paragraphs 1-35 are incorporated herein by reference as if fully set forth herein.

37. Defendant deposited into his personal bank account fees in the approximate amount of \$1,190 for his representation of several other Firm clients.

38. Defendant utilized the fees in the approximate amount of \$1,190 for his personal benefit.

39. Defendant did not inform the Firm about the \$1,190 in fees he deposited into his bank account.

40. The approximately \$1,190 in fees deposited into Defendant's personal bank account were the property of the Firm.

41. Defendant did not have permission from the Firm to accept direct payment of legal fees paid by the Firm's clients nor did he have permission to use the funds for his personal benefit.

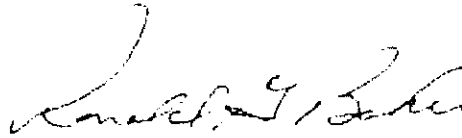
THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N. C. Gen. Stat. §84-28(b)(2) in that Defendant violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- a. by depositing approximately \$1,190 in legal fees from several Firm clients into his personal bank account rather than forwarding them to the Firm, Defendant used entrusted property for the benefit of someone other than the legal or beneficial owner of that property in violation of Rule 1.15-2 (j) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

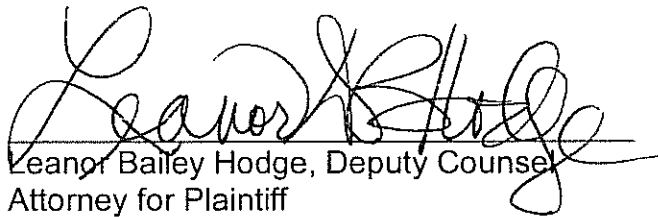
WHEREFORE, the State Bar prays that

1. Disciplinary action be taken against Defendant in accordance with N. C. Gen. Stat. §84-28(c) and 27 N.C.A.C. 1B §.0114 as the evidence on hearing may warrant,
2. Defendant be taxed with the costs permitted by law in connection with this proceeding, and
3. For such other and further relief as is appropriate.

This the 11th day of December 2009.



Ronald G. Baker, Sr., Chair
Grievance Committee



Leann Bailey Hodge, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar
P. O. Box 25908
Raleigh, NC 27611
(919) 828-4620