

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 19

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JOSEPH H. FORBES, Jr., Attorney,

Defendant

**CONSENT ORDER OF
DISCIPLINE**

Following entry of default, this matter came before a hearing panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, Shannon Joseph and Michael S. Edwards for a hearing on what discipline, if any, is appropriate. G. Patrick Murphy represented Plaintiff. David P. Ferrell represented Defendant. Defendant waived a formal phase two hearing and the parties stipulate and agree to the findings of fact, conclusions of law, and discipline recited in this Consent Order of Discipline. By consenting to entry of this order, Defendant knowingly, freely and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based on the foregoing and with the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Joseph H. Forbes ("Defendant" or "Forbes"), was admitted to the North Carolina State Bar in August 1984 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Elizabeth City, Pasquotank County, North Carolina.

FAILURE TO PRODUCE TRUST ACCOUNT DOCUMENTS

4. Defendant maintained a general attorney trust account with BB&T Bank, account number last four digits 1977 ("TA 1977").

5. On August 21, 2013, the State Bar conducted a random procedural audit of TA 1977.

6. The audit revealed that Defendant had failed to reconcile his trust account on a quarterly basis, and that TA 1977 contained approximately \$2,500.00 in funds for which Defendant could not identify the beneficial owner/client.

7. Defendant admitted to the State Bar's auditor that he had not reconciled TA 1977 bank statements and his trust account for "quite some time."

8. As a result of violations of the Rules of Professional Conduct observed during the procedural audit, the Grievance Committee opened grievance file no. 13G1130.

9. In its investigation of file no. 13G1130, on April 9, 2014, the Grievance Committee sent Defendant a letter asking Defendant to produce the following documents of TA 1977 for the period January 2011 to present: 1) all trust account statements; 2) all trust account reconciliations (monthly and quarterly); 3) all deposit tickets; 4) all canceled checks; 5) all client ledgers for clients on whose behalf Defendant held funds in his trust account; and 6) all deposit items (collectively "requested documents").

10. On April 25, 2014, Defendant responded in writing to the April 9 letter. In his response, Defendant admitted that he had not reconciled TA 1977 on a monthly basis, and that he had not escheated approximately \$2,000.00 from TA 1977 because he was still trying to identify the owner(s) of the entrusted funds.

11. Defendant's letter further advised the State Bar that he had made arrangements with a CPA to help Defendant identify the beneficial owner(s) of the funds in his trust account and to prepare reconciliations in the future.

12. Defendant did not produce the requested documents with his April 25, 2014 letter, but stated that the information would be forwarded to the State Bar shortly.

13. Defendant is required by Rule of Professional Conduct 1.15-3(g) to maintain the documents requested by the Grievance Committee for a minimum of six years.

14. On June 12, 2014, the Grievance Committee sent a letter to Defendant reminding him that the requested documents had not been received and asked him to produce them by June 25, 2014. Defendant did not produce the requested documents in response to the June 12 letter.

15. On February 25, 2015, the Grievance Committee sent an email to Defendant that referenced its June 12 letter and a February 23, 2015 voice message about his failure to produce the requested documents. Notwithstanding these reminders, Defendant did not produce the requested documents.

16. On March 4, 2015, the Chair of the Grievance Committee issued a subpoena commanding Defendant to appear at the State Bar on March 16, 2015 and to produce the requested documents.

17. The subpoena was sent to Defendant by certified mail at his address on file with the State Bar's Membership Department.

18. Defendant did not accept the certified mail containing the subpoena.

19. On March 16, 2015, a deputy counsel in the State Bar's Office of Counsel contacted Defendant about the requested documents and Defendant agreed to accept service of the subpoena by email.

20. Defendant's time to respond to the subpoena was extended to March 23, 2015.

21. Defendant did not produce the requested documents by March 23, 2015.

22. On April 1, 2015, the State Bar filed a motion for a temporary restraining order and a petition for a preliminary injunction in Wake County Superior Court based on Defendant's failure to produce the requested documents in response to the State Bar's subpoena.

23. On April 2, 2015, Defendant consented to an order of preliminary injunction that enjoined Defendant from accepting trust funds from clients or initiating any transactions on TA 1977 until authorized to do so by the court.

24. The preliminary injunction further ordered Defendant to produce the requested documents and authorized the State Bar to obtain TA 1977 documents from BB&T.

25. On April 14, 2015, Defendant produced documents related to TA 1977 including bank statements, canceled checks, a handwritten check register and copies of handwritten client ledgers for the time period of January 2011 through March 2015.

26. Most of the bank statements Defendant produced were incomplete.

TRUST ACCOUNT ANALYSIS

27. State Bar Investigative Assistant Chris Woods ("Woods") analyzed TA 1977.

28. Woods' analysis covered the period of January 2011 through March 2015 ("analysis period").

29. On October 28, 2015, Woods emailed Defendant requesting copies of 48 client ledgers and the identification of 82 transactions that could not be attributed to clients using the information previously provided to the State Bar by Defendant. Woods also asked Defendant questions about the transactions in TA 1977.

30. On November 5, 2015, Diana Baum ("Baum"), an assistant to Defendant, emailed Woods a spreadsheet listing transactions that occurred in 2013, 2014 and 2015, but did not answer the questions in Woods' October 28, 2015 email.

31. On December 8, 2015, Woods contacted Defendant by phone and asked for a response to Woods' October 28, 2015 email. Defendant stated that he thought the response had been sent and that he would check with Baum.

32. On December 18, 2015, Defendant sent Woods an email stating that Baum would send the information the following Monday, December 21, 2015. On December 22, 2015, Baum sent Woods copies of 11 client ledgers that Defendant's office had previously provided on April 14, 2015.

33. On March 21, 2016, the Chair of the Grievance Committee issued a subpoena for the Defendant to appear in person on April 21, 2016 for examination and production of documents. The subpoena was sent to Defendant by certified mail but Defendant did not accept the certified mail.

34. On July 29, 2016, Defendant accepted service of a reissued subpoena that commanded him to appear at the State Bar on August 12, 2016 for examination and production of documents listed in the subpoena.

35. Defendant appeared at the State Bar on August 12, 2016 with most of the subpoenaed documents and was questioned by a deputy counsel.

36. Defendant did not produce monthly or quarterly trust account reconciliations of TA 1977 in response to the requests of the State Bar.

37. Client ledgers that Defendant produced did not always contain running balances and most of the ledgers did not contain ending balances.

38. Woods identified \$15,527.00 in the trust account as of January 1, 2011 for whom she could not determine the beneficial owners because the documents produced by Defendant were inadequate.

39. Woods asked Defendant for additional client ledgers dated prior to January 2011.

40. In September 2016, Defendant's office produced 15 client ledgers dated between 2007 and 2010.

41. The ledgers reflected that Defendant was required on January 1, 2011 to be holding in trust a total of \$15,611.81.

CLIENT LEDGERS WITH OUTSTANDING BALANCES

C. PRETLOW

42. Defendant represented C. Pretlow in a personal injury case.
43. The last transaction shown on the client ledger for Pretlow was on July 28, 2009.
44. \$14,469.77 of Pretlow's funds remain in TA 1977.
45. Defendant's assistant Dana VanValkenburg ("VanValkenburg") informed Woods that Defendant had been trying to reduce medical liens in Pretlow's case since 2009.
46. Pretlow's case file contained four letters written to various entities between December 16, 2008 and July 8, 2009 in which Defendant attempted to reduce Pretlow's medical liens. The file is devoid of any evidence that Defendant took any steps in an effort to resolve the liens after September 20, 2010.

S. WILLIAMS

47. Defendant represented S. Williams in a personal injury case.
48. Williams' client ledger contained several voided transactions and two ending balances: \$2,962.96 and \$2,963.51. Woods determined Williams' account balance to be \$2,963.16.
49. VanValkenburg informed the State Bar that Williams had passed away before Defendant was able to resolve the outstanding balance in her case.
50. VanValkenburg informed Woods that the account balance of \$2,963.16 is owed to Williams' husband.
51. Defendant has held \$2,963.16 in entrusted funds belonging to Williams' husband in TA 1977 since September 10, 2013.

G. ROLLINS

52. Defendant handled a real estate transaction for client G. Rollins.
53. The settlement date was November 8, 2013.
54. Utilizing documents produced by Defendant, Woods determined that TA 1977 should have contained \$2,368.69 held in trust for the benefit of Rollins.
55. Rollins' client ledger lists a check in the amount \$2,361.69 payable to the Dare County Tax Department that did not clear.

56. VanValkenburg informed Woods that the tax bill in the Rollins transaction was paid, that \$2,361.69 of the funds held in the trust account was owed to the sellers, that the remaining \$7.00 reflected on the client ledger resulted from an error in wire fees, and that \$7.00 was due to Rollins.

57. Defendant has held \$2,368.69 in entrusted funds in TA 1977 since November 26, 2013.

R. RAGIN

58. The ledger for Defendant's client R. Ragin lists a \$30.00 deposit and a \$30.00 payment to the Pasquotank Sheriff.

59. Woods discovered an additional \$2,000.00 deposit on June 15, 2012 for Ragin's benefit.

60. On August 12, 2016, Defendant informed the State Bar that the \$2,000.00 was held in trust for Ragin but should be returned.

61. Defendant has held \$2000.00 in entrusted funds belonging to Ragin in TA 1977 since August 16, 2012.

C. LEGGETT

62. Defendant represented C. Leggett in a personal injury case resulting from a May 24, 2011 accident.

63. The ledger for Leggett lists one deposit of \$6,000.00 and two disbursements totaling \$4,869.08.

64. Woods determined that \$1,130.92 remains in TA 1977 on behalf of Leggett.

65. Defendant's settlement statement in Leggett's case reflects that Defendant did not pay balances due to Albemarle Hospital in the amount \$1,047.35 and due to Pasquotank/Camden EMS of \$83.57.

66. Defendant has held \$1,130.92 in entrusted funds belonging to Leggett in TA 1977 since January 31, 2012.

M. FORREN

67. Defendant represented M. Forren in a real estate transaction that settled on September 5, 2014.

68. Forren's client ledger listed one deposit for \$72,792.34 and 6 disbursements totaling \$71,892.34. The ledger contains no final balance.

69. Woods determined that \$900.00 remained in TA 1977 in connection with Forren's closing.

70. The funds have been in TA 1977 since September 26, 2014.

E. CROSS

71. Defendant represented E. Cross in a real estate closing in October 2012. Cross' client ledger listed deposits totaling \$140,107.07 and disbursements totaling \$139,585.59.

72. The transactions reflected on Cross' client ledger resulted in a positive balance of \$521.48 which has remained in TA 1977 since September 2013.

B. DILL

73. On July 23, 2012, a deposit of \$200.00 was posted to TA 1977 attributed to B. Dill. There were no other transactions in the trust account relating to this transaction.

74. Baum informed Woods that the funds were a filing fee. Baum provided a receipt indicating that Defendant paid \$200.00 to the Currituck County Clerk of Court.

75. Woods determined that the \$200.00 was owed to Defendant.

76. Defendant allowed the \$200.00 to remain in TA 1977 since July 2012.

77. Twelve other clients had balances in TA 1977 either from calculation errors or bank errors, to wit: Dempsey \$88.00; J. Butler \$86.00; H. Patel \$73.00; P. Colley \$26.00; A. Williams \$26.00; V. Patel \$25.00; Edwards \$18.29; Chaney \$13.00; Hoidal \$13.00; T. Felton \$8.24; J. Ellis \$0.10; and J. Braswell \$0.08. These calculation errors would have been identified and resolved during monthly and quarterly reconciliations.

78. As of March 31, 2015, the balances of 6 clients showed that funds had been over-disbursed on the client's behalf resulting in a shortage in TA 1977 of \$2,370.23.

79. Defendant did not provide annual accountings to clients for whom balances were carried in TA 1977 in excess of a year.

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Hearing Panel has jurisdiction over Defendant and the subject matter of this proceeding.

2. Defendant's conduct, as set forth above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- (a) By failing to produce records of TA 1977 for more than a year in response to the State Bar's April 9, 2014 request and follow up requests, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (b) By failing to produce documents and records related to TA 1977 in response to the State Bar's March 4, 2015 subpoena, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) and Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By failing to reconcile his trust account on a quarterly basis, Defendant violated Rule 1.15-3(d)(1);
- (d) By failing to reconcile his trust account on a monthly basis, Defendant violated Rule 1.15-3(d)(2);
- (e) By failing to maintain a ledger containing a record of receipts and disbursements for each person or entity from whom and for whom funds were received and showing the current balance of funds held in his trust account for each such person or entity, Defendant violated Rule 1.15-3(b)(5);
- (f) By failing to produce complete client ledgers, monthly and quarterly reconciliations, and complete bank statements for his trust account in response to a subpoena issued by the State Bar, Defendant failed to maintain minimum records of entrusted property in violation of Rule 1.15-3(g);
- (g) By failing to address and resolve longstanding client balances in TA 1977, Defendant failed to act with reasonable diligence and promptness in representing clients in violation of Rule 1.3;
- (h) By failing to disburse outstanding client balances in TA 1977 for clients Pretlow, Williams, Rollins, Ragin, Leggett, Forren, Cross and/or others, Defendant failed to promptly pay or deliver to the client, or to third persons as directed by the client, entrusted property belonging to the client and to which the client was then entitled in violation of Rule 1.15-2 (n);
- (i) By allowing funds belonging to Defendant to remain in TA 1977 for over a year, Defendant failed to maintain entrusted property separate from property belonging to Defendant in violation of Rule 1.15-2(a); and
- (j) By allowing outstanding client balances to remain in TA 1977 for more than a year without providing an accounting to the clients, Defendant violated 1.15-3(e).

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel by clear, cogent and convincing evidence enters the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant has substantial experience in the practice of law having been licensed since 1984.

2. Defendant's failure to timely respond to requests for trust account records and his failure to accept and timely respond to subpoenas for trust account records caused the State Bar to petition the Superior Court to enjoin Defendant's handling of entrusted funds, demonstrating Defendant's disregard for the legal profession's self-regulation process.

3. Defendant's violation of multiple rules related to proper administration of his trust accounts has the potential to cause significant harm to the standing of the profession in the eyes of the public because it shows his disregard for his duties as an attorney. Defendant's conduct undermines the public's confidence in lawyers' ability to safely maintain and account for entrusted client funds.

4. Defendant's failure to conduct quarterly reconciliations and failure to otherwise monitor his trust accounts has the potential to cause harm to his clients. Conducting quarterly reconciliations of trust accounts is vital to proper maintenance and protection of entrusted funds. Defendant's continued failure to perform monthly and quarterly reconciliations and his failure to maintain proper trust account records demonstrate Defendant's intent to commit acts where the potential harm was foreseeable.

5. There is no evidence that Defendant took any money from client accounts for his own personal gain.

Based on the foregoing Findings of Fact, Conclusions of Law and Findings of Fact Regarding Discipline, the Hearing Panel enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure and suspension. In addition, the Hearing Panel has considered all factors contained in 27 N.C.A.C. 1B § .0116(f)(1) of the Rules and Regulations of the State Bar and finds that the following factors warrant suspension of Defendant's license:

- (a) Intent of the defendant to commit acts where the potential harm is foreseeable;
- (b) Negative impact of the defendant's actions on the public's perception of the profession; and
- (c) Multiple instances of failure to participate in the legal profession's self-regulation process.

2. The Hearing Panel has also considered all factors enumerated in 27 N.C.A.C. 1B § .0116(f)(2) of the Rules and Regulations of the North Carolina State Bar and concludes that no factors are established to warrant consideration of disbarment.

3. The Hearing Panel has also considered all factors enumerated in 27 N.C.A.C. 1B § .0116(f)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (a) failure to make timely good faith efforts to rectify the consequences of Defendant's misconduct;
- (b) pattern of misconduct;
- (c) multiple offenses; and
- (d) experience in the practice of law.

4. Defendant's misconduct resulted in potential significant harm to his clients by placing entrusted client funds at risk of misapplication.

5. Defendant's misconduct had a negative impact on the public's perception of the legal profession.

6. The Hearing Panel has considered lesser alternatives and finds that a censure, reprimand or admonition would be insufficient discipline because of the harm and potential significant harm to Defendant's clients and the negative impact of Defendant's actions on the public's perception of the profession.

7. The Hearing Panel finds that discipline short of suspension would not adequately protect the public, would fail to acknowledge the seriousness of the misconduct and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

8. The Hearing Panel finds and concludes that the public will be adequately protected by suspension of Defendant's law license with the opportunity for a stay upon compliance with conditions imposed upon Defendant designed to ensure protection of the public and Defendant's continued compliance with the Rules of Professional Conduct.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. Defendant, Joseph H. Forbes, Jr., is hereby suspended from the practice of law for three (3) years effective October 1, 2018.

2. Defendant shall comply with the wind-down provisions of 27 N.C.A.C. 1B § .0128 of the State Bar Discipline and Disability Rules.

3. Defendant shall submit his license and membership card to the Secretary of the State Bar within ten (10) days of the effective date of this Order.

4. Defendant shall keep the North Carolina State Bar Membership Department advised of his current business address and shall notify the State Bar of any change in address within ten (10) days of such change. Defendant's current business address must be a street address, not a P.O. Box or drawer.

5. Defendant shall timely accept all certified mail sent to him by the State Bar.

6. Defendant shall respond to all communications from the North Carolina State Bar within fifteen (15) days of receipt of the communication or by the deadline stated in the communication, whichever is sooner.

7. Defendant shall timely comply with all State Bar membership and CLE requirements, and timely pay all dues, costs, fees or assessments related thereto.

8. Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension.

9. Within ten (10) days of this order's effective date, Defendant shall, at his own expense, retain a certified public accountant or other qualified accounting professional (hereafter collectively "CPA") approved in advance by the Office of Counsel who shall audit his trust accounts to identify the beneficial owners of all funds in Defendant's trust accounts and to confirm that Defendant's trust accounts are in compliance with the Rules of Professional Conduct. Defendant will cooperate with the CPA to ensure the audit is completed in a timely fashion. Upon completion of the audit, the CPA shall provide the State Bar with a written final audit report identifying the owner of entrusted funds in Defendant's trust accounts and confirming that Defendant's accounts comply with the Rules of Professional Conduct. It is Defendant's sole responsibility to ensure that the CPA completes and submits the reports required herein.

10. Within sixty (60) days of completion of the CPA's audit of Defendant's trust fiduciary accounts, Defendant shall disburse all identified client funds in Defendant's accounts that are due or overdue for distribution to their rightful owner(s).

11. Defendant shall comply with Rule 1.15-2(r) regarding all unidentified funds in Defendant's accounts and comply with Chapter 116B of the General Statutes within sixty (60) days of being statutorily permitted to escheat funds to the State.

12. That Defendant shall complete six (6) hours of CLE in trust account management and shall provide documentation of compliance with this condition to the Office of Counsel of the State Bar within five (5) days of completion of the CLE. These six (6) hours are in addition to the CLE requirements set out in 27 N.C.A.C. 1D § .1518.

13. That Defendant shall complete three (3) hours of CLE in law office management and shall provide documentation of compliance with this condition to the Office of Counsel of the State Bar within five (5) days of completion of the CLE. These three (3) hours are in addition to the CLE requirements set out in 27 N.C.A.C. 1D § .1518.

14. Defendant shall pay all administrative fees and costs assessed against him in this disciplinary proceeding within thirty (30) days of service of a statement of costs upon him by the Secretary.

15. After serving an active suspension of six (6) months, the remainder of the suspension may be stayed upon the filing a motion pursuant to 27 N.C.A.C. 1B § .0118(c) of the North Carolina State Bar Discipline and Disability Rules demonstrating compliance with the requirements therein and with paragraphs 2-14 above. If Defendant is granted a stay, the suspension of his law license shall be stayed only so long as he complies and continues to comply during the period of the stay with the following conditions:

- (a) That Defendant comply with paragraphs 4-8 above;
- (b) That Defendant shall, at his own expense, retain a certified public accountant or other qualified accounting professional (hereafter collectively “CPA”), approved in advance by the Office of Counsel, who shall audit Defendant’s trust accounts on a semi-annual basis to ensure Defendant’s compliance with the Rules of Professional Conduct. The CPA must report to the Office of Counsel concerning the compliance of Defendant’s accounts with the Rules of Professional Conduct including, but not limited to, any accounting irregularities and any deviance from the requirements of the Rules of Professional Conduct, with a copy of the report sent simultaneously to Defendant. The CPA’s reports are due on January 1 and July 1 for each year of the stayed suspension. Defendant shall be solely responsible for ensuring that the CPA completes and submits the reports as required herein and Defendant shall be solely responsible for all costs associated with preparation of the CPA’s reports;
- (c) That if any semi-annual report or random audit reveals any violations of the rules applicable to trust accounts under the Rules of Professional Conduct, Defendant shall promptly take all remedial action necessary to bring the trust accounts into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the Office of Counsel of the State Bar within fifteen (15) days of the date of the semi-annual report or random audit;

- (d) That Defendant shall provide the Office of Counsel with copies of the following trust account records quarterly, due on or before the 15th day of the month following the end of each quarter (January, April, July, and October) during the stayed suspension, for all trust accounts maintained by Defendant:
- i. Monthly reconciliations of the balance of the trust accounts as shown on Defendant's records and the current bank balance for the trust account;
 - ii. Reconciliation of the individual client ledger balances, the ledger of a general trust account, and the current bank statement balance for the trust account as a whole. Defendant shall provide his bank statements, client ledgers, and general ledger with each quarterly submission.
- (e) That Defendant permit the State Bar to conduct random audits of all trust accounts over which he has signatory authority and into which client or fiduciary funds have been deposited. Defendant shall provide the State Bar with all documents requested by the State Bar within five (5) business days of the request and shall be solely responsible for the expense of complying with the random audit requests. The State Bar shall not conduct more than twelve (12) audits in any 12-month period.

16. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 15(a) – (e) above, the stay of the suspension may be lifted as provided in 27 N.C.A.C. 1B §.0118(a) of the North Carolina State Bar Discipline and Disability Rules.

17. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may apply for reinstatement after serving the activated suspension by filing a petition pursuant to 27 N.C.A.C. 1B § .0129(b) of the North Carolina State Bar Discipline and Disability Rules demonstrating compliance with the requirements therein as well as the following requirements by clear, cogent, and convincing evidence establishing that:


- (a) Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty (30) days after the date of the order lifting the stay and/or activating the suspension of his law license;
- (b) Defendant complied with all provisions of 27 N.C.A.C. 1B § .0128 of the State Bar Discipline and Disability Rules following the order lifting the stay and/or activating the suspension of his law license;
- (c) Defendant timely paid all administrative fees and costs assessed against him;
- (d) Defendant kept the North Carolina State Bar Membership Department advised of his current address and notified the State Bar of any change in address within ten (10) days of such change;

- (e) Defendant accepted all certified mail sent to him by the State Bar.
- (f) Defendant responded to all communications from the North Carolina State Bar within fifteen (15) days of receipt of the communication or by the deadline stated in the communication;
- (g) Defendant timely complied with all State Bar membership and CLE requirements, and timely paid all dues, costs, fees or assessments related thereto; and
- (h) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension.

18. If the stay of suspension is lifted and the suspension is activated for any reason, and if Defendant fails to fully comply with 27 N.C.A.C. 1B § .0128 and the Court appoints a trustee to wind down any portion of Defendant's practice, Defendant shall reimburse the State Bar for all expenses incurred by the State Bar in winding down his practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses, and compensation paid to the trustee and/or the trustee's assistant for time and travel associated with the trusteeship. After the Court has discharged the trustee, the State Bar shall send an invoice of wind-down expenses to Defendant's last known address of record with the North Carolina State Bar. Defendant shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.

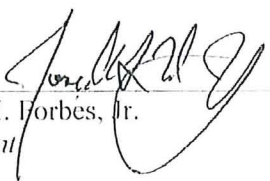
19. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end three years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C.A.C. 1B § .0118(a) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the three-year (3) suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Panel, this is the 17th day of September, 2018.

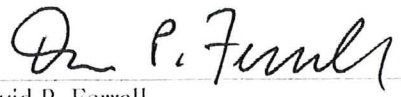


Fred M. Morelock, Chair
Hearing Panel

CONSENTED TO BY:



Joseph H. Forbes, Jr.
Defendant



David P. Ferrell
Attorney for Defendant



G. Patrick Murphy
Attorney for Plaintiff