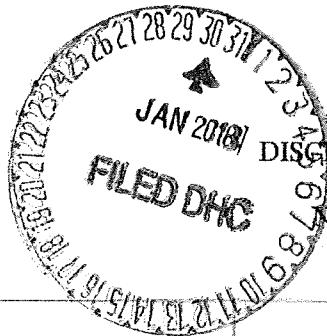


NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
16 DHC 27

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MICHAEL S. WILLIAMSON, Attorney,

Defendant

ORDER LIFTING STAY &  
ACTIVATING SUSPENSION

Defendant, Michael S. Williamson, was ordered to appear and show cause why the stay of the suspension imposed by the Order of Discipline entered in this case on December 7, 2016 should not be lifted and the suspension activated. This matter was heard on December 11, 2017 by a Hearing Panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, David W. Long, and Bradley Lail pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0118(a). The Plaintiff was represented by Mary D. Winstead. The Defendant appeared *pro se*. Based upon the documents of record in this file, the stipulations and evidence presented at the hearing, the Hearing Panel hereby finds by the greater weight of the evidence the following:

1. On December 7, 2016, a Consent Order of Discipline ("Consent Order") was entered in this matter. The Consent Order was served on Defendant on December 9, 2016.
2. Pursuant to the Consent Order, Defendant was suspended from the practice of law for three years. The suspension was stayed for three years conditioned upon Defendant's compliance with certain conditions set out in the Consent Order.
3. On January 20, 2017, Defendant filed a Motion to Extend Time to Comply with Consent Order of Discipline.
4. On February 7, 2017, the Chair of the Disciplinary Hearing Commission panel assigned to this matter entered an order allowing Defendant 120 days from entry of the order to comply with the payment of fees and costs, to establish written trust accounting procedures, and to comply with the requirement that the CPA's initial audit of his trust account be completed.
5. On August 31, 2017, Plaintiff filed a Motion for Order to Show Cause requesting that Defendant show cause why the stay of his suspension should not be lifted and the suspension activated for his failure to meet the requirements set forth in the Consent Order.

6. On September 11, 2017, the Chair of the Disciplinary Hearing Commission entered an order for Defendant to show cause why an order should not be entered activating the

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*Order Lifting Stay and Activating Suspension*

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suspension of Defendant's license to practice law in North Carolina and setting the matter on for hearing on December 11, 2017.

7. At the December 11, 2017 hearing, Plaintiff and Defendant entered into stipulations contained in paragraphs 8 through 10 below.

8. Pursuant to paragraph 3(c) of the Consent Order, within 90 days of service of the order, Defendant was required to have his trust account audited by a Certified Public Accountant ("CPA"). Defendant was granted an additional 120 days to complete this requirement pursuant to the February 7, 2017 order referenced above. Defendant is not in compliance with this condition. Defendant has failed to provide a CPA report.

9. Pursuant to paragraph 3(q) of the Consent Order, on or before June 30 each year the stay is in effect, Defendant was required to submit an affidavit certifying that all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant or his law firm are administered, to the best of his knowledge, in compliance with the requirements of Rule 1.15 (including all subparts) or that he is exempt from this provision because Defendant does not maintain any trust or fiduciary accounts for North Carolina client funds. Defendant is not in compliance with this condition. Defendant has failed to provide the affidavit due June 30, 2017.

10. Pursuant to paragraph 3(z) of the Consent Order, Defendant was required to pay the costs and fees of the disciplinary proceeding as assessed by the Secretary within thirty days after being served with the statement of costs and fees. Defendant was served with the statement of fees and costs on December 12, 2016. Defendant was granted an additional 120 days to complete this requirement pursuant to the February 7, 2017 order referenced above. Defendant is not in compliance with this condition. Defendant has failed to pay the fees and costs.

11. Defendant, having stipulated to the violations of the Consent Order, offered no testimony or other evidence or reasonable possibility that he will have the funds needed to comply with the terms of the order of discipline to which he consented.

12. Defendant offered no reasonable possibility that he will be able to determine the beneficial owner(s) of the funds in his trust account which has been frozen since December 2, 2015.

13. The State Bar should attempt to determine the beneficial owner(s) of the funds in Defendant's trust account at Defendant's expense.

### **CONCLUSIONS OF LAW**

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

2. Defendant, Michael S. Williamson, has failed to comply with the following conditions of the stay of his suspension contained in the Consent Order of Discipline previously entered in this case within the time limits granted in this Hearing Panel's February 7, 2017 order:

- (a) Defendant failed to have his trust account audited by a Certified Public Accountant ("CPA"), which was required pursuant to paragraph 3(c) of the Consent Order.
- (b) Defendant failed to submit an affidavit certifying that all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant or his law firm are administered, to the best of his knowledge, in compliance with the requirements of Rule 1.15 (including all subparts) or that he is exempt from this provision because Defendant does not maintain any trust or fiduciary accounts for North Carolina client funds on or before June 30, 2017. This was required pursuant to paragraph 3(q) of the Consent Order.
- (c) Defendant failed to pay the costs and fees of the disciplinary proceeding as assessed by the Secretary. This was required pursuant to paragraph 3(z) of the Consent Order.

3. These violations of the terms of the consent order warrant this Hearing Panel lifting the stay and activating the suspension.

Based upon the foregoing findings of fact and conclusions of law, the Hearing Panel enters the following:

#### **ORDER**

1. The stay of the three year suspension imposed in the Consent Order of Discipline previously entered in this case is hereby lifted and the suspension is hereby activated. This activation is effective and Defendant's license will be suspended 30 days from the date this Order is served upon him.

2. All costs and administrative fees associated with this show cause hearing are taxed to Defendant.

3. Defendant shall surrender his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

4. Defendant shall wind down his practice in compliance with all provisions of 27 NCAC 1B § .0128.

5. Defendant may apply to have the balance of the suspension stayed by filing a motion in the cause demonstrating compliance with the requirements of 27 NCAC 1B § .0129(b) and the requirements for reinstatement contained in paragraph 6 of the Consent Order of Discipline. In addition, in order to be eligible for a stay, Defendant must show by clear, cogent, and convincing evidence that he has complied with the following:

- (a) Paid the costs and administrative fees associated with the December 11, 2017 hearing on the Motion to Show Cause;

- (b) Paid any costs associated with the State Bar's efforts to determine the beneficial owners of the funds held in Defendant's trust account; and
- (c) Fully cooperated with the State Bar's efforts to determine the beneficial owner(s) of the funds held in his trust account.


6. If any portion of the three year suspension is stayed, Defendant's active status for the remainder of the three year period shall be subject to and contingent upon compliance with the terms of the stayed suspension set forth in paragraph 3 of the Consent Order with the following modifications:

- (a) If the State Bar has successfully determined the beneficial owner(s) of the funds in Defendant's trust account, Defendant shall not be required to have a CPA conduct an initial audit as required in paragraph 3(c) nor shall he be required to provide the final audit report required by paragraph 3(d). Defendant shall comply with the remaining provisions of the Consent Order concerning the CPA's quarterly audit reports and resulting follow up action.
- (b) Paragraph 3(q) is modified as follows: Defendant must submit an affidavit to the State Bar on the last day of each month certifying that all general trust accounts, dedicated trust accounts, and fiduciary accounts maintained by Defendant or his law firm are administered, to the best of his knowledge, in compliance with the requirements of Rule 1.15 (including all subparts) or 1) that he is exempt from this provision because Defendant does not maintain any trust or fiduciary accounts for North Carolina client funds and 2) that he has not handled any entrusted funds that month.

7. If Defendant is not reinstated to active status prior the expiration of the three year suspension period, before Defendant may be reinstated to active status, he must satisfy the requirements of 27 NCAC 1B § .0129(b) and the requirements in paragraph 5 above which includes the requirements for reinstatement contained in paragraph 6 of the Consent Order of Discipline.

Signed by the undersigned Chair of the Disciplinary Hearing Panel with the consent of the other Hearing Panel members.

This the 30 day of January, 2018.

  
Donald C. Prentiss, Chair  
Disciplinary Hearing Panel