

STATE OF NORTH CAROLINA  
WAKE COUNTY

FILED  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
2018 APR 20 P 3:12 18 CVS 3872

THE NORTH CAROLINA STATE BAR,  
Petitioner

v.

DAVID H. CAFFEY, Attorney  
Respondent

WAKE COUNTY C.S.C.  
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, David H. Caffey, represented himself.

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

#### FINDINGS OF FACT

1. Respondent, David H. Caffey ("Caffey"), was licensed to practice law in North Carolina on 19 August 1978 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. Caffey's address of record with the North Carolina State Bar is 4400 Silas Creek Parkway, Suite 200, Winston-Salem, North Carolina 27104.
3. During the periods relevant hereto, Caffey was engaged in the practice of law in Winston-Salem, Forsyth County, North Carolina.
4. Between July 2017 and February 2018, Caffey misappropriated over \$3,655.00 of entrusted client funds from his attorney trust account and used these funds for his personal benefit or for the benefit of someone other than the beneficial owner of the funds without authorization to do so.
5. Caffey desires to resign his license to practice law and has tendered his license to practice law in North Carolina.
6. Caffey's resignation is freely and voluntarily rendered. It is not the result of coercion or duress. Caffey is fully aware of the implication of submitting his resignation.

7. Caffey is aware that there is presently pending an investigation with the North Carolina State Bar regarding the conduct described above. Caffey acknowledges that the material facts upon which the State Bar's investigation is predicated are true.

8. Caffey has submitted his resignation because he knows that if disciplinary charges were predicated upon the misconduct under investigation, he could not successfully defend against them.

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

#### CONCLUSIONS OF LAW

1. By misappropriating entrusted client funds, Caffey used entrusted funds for his personal benefit or for the benefit of third parties not entitled to the funds in violation of Rules 1.15-2(a), (b), and (k), and Rules 8.4(b) and (c) of the Rules of Professional Conduct.

2. Caffey'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 David H. Caffey and over the subject matter of this proceeding.

5. Caffey has engaged in professional misconduct warranting disbarment.

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

1. David H. Caffey is DISBARRED from the practice of law in North Carolina.

2. Caffey shall comply with the provisions of 27 N.C. Admin. Code, Chapter 1, Subchapter B, Section .0128 of the Rules and Regulations of the North Carolina State Bar and shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by § .0128. Caffey shall have thirty (30) days from the date of the entry of this order to complete the requirements of § .0128.

3. Caffey shall not petition for reinstatement of his law license until the expiration of at least five years from the date of entry of this order.

4. Caffey's law license shall not be reinstated until he has demonstrated to the satisfaction of the Disciplinary Hearing Commission and the Council of the North Carolina State Bar that he has complied with 27 N.C. Admin. Code, Chapter 1, Subchapter B, Section .0129 of the Rules and Regulations of the North Carolina State Bar.

5. Caffey shall provide to the State Bar within thirty days of the effective date of this Order an address and telephone number at which clients seeking return of their files can communicate with Caffey and obtain such files.

6. Caffey shall return client files to the client within five days of receipt of a request for return of the client file. Caffey will be deemed to have received any such request three days after the date the request is sent to him if the request is sent to the address Caffey provided to the State Bar pursuant to this Order.

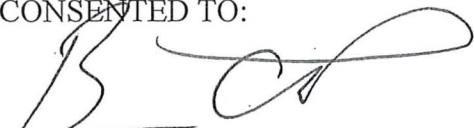
7. If Caffey fails to fully comply with 27 N.C. Admin. Code 1B § .0128 and the Court appoints a trustee to wind down any portion of Caffey's practice, Caffey shall reimburse the State Bar for all expenses incurred by the State Bar in winding down Caffey's practice. Such expenses may include, but are 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 Caffey at Caffey's last known address of record with the North Carolina State Bar, and Caffey shall pay such invoice in full within 90 days of the date of the invoice. Caffey shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.

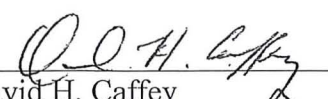
8. The costs of this action are taxed against Caffey.

Dated this 20th day of April, 2018.

  
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Superior Court Judge Presiding

CONSENTED TO:

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

  
\_\_\_\_\_  
David H. Caffey  
Respondent

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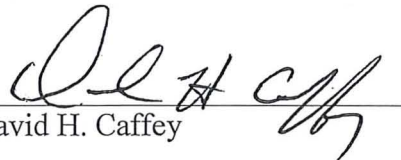
Respondent

AFFIDAVIT OF  
SURRENDER OF LAW LICENSE

David H. Caffey, 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. I am aware that there is presently pending an investigation with the North Carolina State Bar regarding allegations that, between July 2017 and February 2018, I misappropriated at least \$3,655.00 of entrusted client funds from my attorney trust account and used these funds for my personal benefit or for the benefit of someone other than the beneficial owner of the funds without authorization to do so.
4. I acknowledge that the material facts upon which the investigation is predicated are true.
5. 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 11 day of April, 2018.

  
David H. Caffey

I, Stephen C. Mathis, Notary Public of the County of Forsyth, State of North Carolina, certify that David H. Caffey personally appeared before me this day and acknowledged the due execution of the foregoing Affidavit.

Sworn to and subscribed before me, this the 11<sup>th</sup> day of April, 2018.

  
Notary Public

My Commission Expires: 8/31/2019

