

STATE OF NORTH CAROLINA

WAKE COUNTY

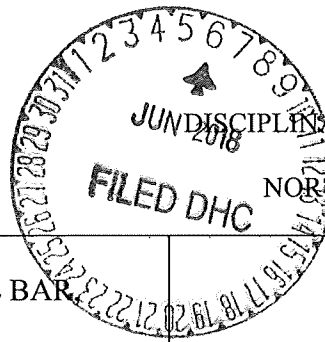
THE NORTH CAROLINA STATE BAR

Plaintiff

v.

JULIE A. PARKER, Attorney,

Defendant



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 21

CONSENT ORDER

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission ("DHC") composed of Fred M. Morelock, Chair, and members Fred W. DeVore III and Tyler B. Morris, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0115(i). Plaintiff was represented by Mary D. Winstead. Defendant, Julie A. Parker, was represented by Alan M. Schneider. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order and to the discipline imposed. Defendant has freely and voluntarily stipulated to the findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives any and all right to appeal the entry of this Consent Order of Discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters 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, Julie A. Parker, was admitted to the North Carolina State Bar in August 1987 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 Mocksville, Davie County, North Carolina.

The North Carolina State Bar v. Julie A. Parker, 17 DHC 21

Consent Order

Page 1 of 9

4. At all times referenced in the complaint, Defendant and her husband, Michael Parker, (“the Parkers”) practiced law as Parker and Parker Attorneys at Law, a partnership (“the partnership”).

5. At all times referenced in the complaint, the Parkers had one or more employees who provided services for the benefit of the partnership.

6. When they paid wages to their employees, the Parkers were required by the Internal Revenue Service (“IRS”) to withhold funds from their employees’ paychecks to pay the employees’ social security, Medicare, and federal income taxes (“employment taxes”).

7. As a partner in the law firm, Defendant was required to collect, truthfully account for, and timely pay over to the IRS employment taxes for employees of the partnership.

8. The Parkers were required pursuant to the Internal Revenue Code to remit withheld funds to the IRS on a monthly or quarterly basis.

9. From the time the funds were withheld until the time they were paid to the IRS, the Parkers had a fiduciary duty to hold funds withheld from employees’ paychecks in trust for the benefit of the United States Department of the Treasury.

10. The Parkers withheld funds from employees for employment taxes and failed to remit those funds to the IRS within the time required by law during the following time frames:

- (a) First quarter of 2011;
- (b) Second quarter of 2011;
- (c) Fourth quarter of 2011;
- (d) First quarter of 2012;
- (e) Second quarter of 2012;
- (f) Third quarter of 2012; and
- (g) Fourth quarter of 2012

11. The Parkers knew they had a legal duty to remit the funds they withheld to the IRS within the times specified in the Internal Revenue Code.

12. During the applicable quarters, the partnership filed Form 941s that did not truthfully reflect the monthly employment tax deposits to the IRS.

13. On or about October 16, 2012, the IRS filed a tax lien against the partnership for employment taxes, penalties, and interest in the amount of:

- (a) \$101.28 for the tax period ending March 31, 2010 (first quarter of 2010);
- (b) \$843.21 for the tax period ending March 31, 2011 (first quarter of 2011); and
- (c) \$338.61 for the tax period ending June 30, 2011 (second quarter of 2011).

14. On or about January 8, 2013, the IRS filed a tax lien against the partnership for employment taxes, penalties, and interest in the amount of:

- (a) \$2,015.67 for the tax period ending December 31, 2010 (fourth quarter of 2010);
- (b) \$4,833.35 for the tax period ending December 31, 2011 (fourth quarter of 2011);
- (c) \$3,904.55 for the tax period ending March 31, 2012 (first quarter of 2012); and
- (d) \$997.02 for the tax period ending June 30, 2012 (second quarter of 2012).

15. On or about January 28, 2013, the IRS filed a tax lien against the partnership for employment taxes, penalties, and interest, in the amount of \$6,987.84 for the tax period ending September 30, 2012 (third quarter of 2012).

16. On or about April 16, 2013, the IRS filed a tax lien against the partnership for employment taxes, penalties, and interest in the amount of \$3,222.09 for the tax period ending December 31, 2012 (fourth quarter of 2012).

17. The Parkers were also required pursuant to the Internal Revenue Code to report and pay Federal Unemployment Tax Act ("FUTA") taxes to the federal government for the employees of the partnership.

18. As a partner in the law firm, Defendant was required to report and pay FUTA taxes to the federal government for the employees of the partnership.

19. On or about August 21, 2013, the IRS filed a tax lien against the partnership for FUTA taxes in the amount of \$761.22 for the tax period ending December 31, 2010.

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the Hearing Panel enters the following:

Conclusions of Law

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

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows: By failing to truthfully account for and timely remit to the IRS the employment taxes owed to the IRS, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

Upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

Additional Findings of Fact Regarding Discipline

1. The findings of fact in paragraphs 1 – 19 above are reincorporated as if set forth herein.

2. On or about October 16, 2011, the partnership remitted to the IRS \$3,031.08 for the 1st quarter of 2011, \$2,120.24 for the 2nd quarter of 2011, and \$2,612.33 for the 3rd quarter of 2011.

3. On November 7, 2012, the partnership remitted to the IRS \$3,495 for the 2nd and 3rd quarters of 2012.

4. In the ensuing years, through the efforts of the partnership and the IRS, the partnership's employment tax obligations to the IRS were satisfied, and at present, the partnership has no indebtedness to the IRS for employment taxes.

5. Defendant and Michael Parker still have a significant indebtedness to the IRS for personal income tax.

6. Defendant's failure to truthfully account for and timely remit employment taxes to the IRS created the foreseeable potential harm of misleading the Department of the Treasury in its administration of the Internal Revenue Code regarding the partnership's compliance with the law.

7. Defendant's failure to timely remit employment taxes withheld from employees of the partnership demonstrates a disregard for the laws of this state and country and for civic duty, brings the legal profession into disrepute, and undermines public confidence in lawyers.

8. Defendant has substantial experience in the practice of law, having been licensed since 1987.

9. Defendant has no prior discipline.

10. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

Conclusions With Respect To Discipline

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In doing so, the Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f)(1) and concludes that the following factors are present:

- (a) intent of the defendant to commit acts where the harm or potential harm is foreseeable;

- (b) circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (c) negative impact of defendant's actions on client's or public's perception of the profession;
- (d) negative impact of the defendant's actions on the administration of justice; and
- (e) acts of dishonesty, misrepresentation, deceit, or fabrication.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f)(2) and concludes that although Defendant engaged in acts of misrepresentation and failure to truthfully account for and timely pay over employment taxes, suspension is warranted, but disbarment is not necessary to protect the public.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code. 1B .0116(f)(3) and concludes the following factors are applicable in this matter:

- (a) absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) cooperative attitude toward the DHC proceedings;
- (e) degree of experience in the practice of law; and
- (f) imposition of other penalties or sanctions in that Defendant's delinquent tax liabilities resulted in penalties and interest.

- 1. Defendant should be taxed with the administrative fees and costs of this action.

Based upon the foregoing Findings of Fact and Conclusions of Law and the Additional Findings of Fact and Conclusions Regarding Discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

Order of Discipline

1. The license of Defendant, Julie A. Parker, is hereby suspended for five years, effective thirty days from the date of service of this order upon her.

2. Defendant shall submit her license and membership card to the Secretary of the North Carolina State Bar no later than thirty days following the effective date of this Order.

3. Defendant shall comply with the wind down provisions contained in Rule .0128 of the North Carolina State Bar Discipline and Disability Rules. As provided in Rule .0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within ten days of the effective date of this Order, certifying that she has complied with the wind down rule.

4. If Defendant fails to fully comply with 27 N.C. Admin. Code 1B § .0128, Defendant shall reimburse the State Bar for all expenses incurred by the State Bar in winding down Defendant'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

The North Carolina State Bar v. Julie A. Parker, 17 DHC 21

Consent Order

Page 5 of 9

mailing expenses, and compensation paid to a trustee and/or a trustee's assistant for time and travel associated with the trusteeship. The State Bar shall send an invoice of wind down expenses to Defendant at Defendant's last known address of record with the North Carolina State Bar. Defendant shall not be eligible for reinstatement until she has reimbursed the State Bar for all wind down expenses incurred.

5. Defendant shall pay the costs and administrative fees of this proceeding as assessed by the Secretary, including the costs of all depositions and transcriptions of depositions taken in this case, within thirty days of service of the statement of costs and administrative fees upon him.

6. Within thirty days of the effective date of this Order, Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant to obtain such files. Defendant shall promptly return all files to clients upon request.

7. Defendant shall file all state and federal tax returns on a timely basis and shall timely pay all amounts owed for those tax years to the taxing authorities.

8. After eighteen months of active suspension, Defendant may apply for a stay of the remaining period of the suspension upon filing a motion in the cause as provided in 27 N.C. Admin. Code 1B §.0118(c) and demonstrating by clear, cogent and convincing evidence that, in addition to complying with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B §.0129(b), the Defendant has complied with the following conditions:

- (a) Defendant has kept the North Carolina State Bar Membership Department advised of her current business and home addresses and notified the Bar of any change in address within ten days of such change. Such addresses must be street addresses, not a post office box or post office drawer;
- (b) Defendant has responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of Defendant's receipt of the communication or by the deadline stated in the communication, whichever is sooner, and has participated in good faith in the State Bar's fee dispute resolution process for any petition which was pending during the period of suspension;
- (c) That at the time of her petition for stay, Defendant is current in payment of all Membership dues, fees, and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from her, and including all judicial district dues, fees and assessments;
- (d) That at the time of her petition for stay, there is no deficit in Defendant's completion of mandatory Continuing Legal Education (CLE) hours, in reporting such hours or in payment of any fees associated with attendance at CLE programs;

- (e) That during the active suspension that preceded the motion for stay, Defendant has completed two hours of CLE regarding trust accounting and at least one of the two hours shall be a course taught by the Trust Account Compliance Counsel for the North Carolina State Bar;
- (f) That Defendant is current on all her tax law obligations to all taxing authorities, including but not limited to, satisfying all tax liens that have or may be filed, and being current on filing and payment requirements for all tax obligations;
- (g) Defendant has executed any written waivers and releases necessary to authorize the Office of Counsel to confer with the IRS or the N. C. Department of Revenue for the purpose of determining whether Defendant has cooperated and complied with all requirements of this Order;
- (h) Defendant has provided to the Office of Counsel copies of all correspondence, including summaries of oral communications, sent to or received by her or her representative from any taxing authority during the period of active suspension;
- (i) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during her suspension;
- (j) Defendant properly wound down her law practice and complied with the requirements of 27 N.C. Admin. Code 1B § .0128; and
- (k) Defendant has paid the costs and fees of this proceeding as reflected on the statement of costs served upon Defendant by the Secretary of the State Bar within thirty days of service of that statement upon Defendant.

9. If Defendant successfully petitions for a stay of her suspension, the applicable suspension of Defendant's law license shall be stayed as long as that Defendant complies and continues to comply with the following conditions:

- (a) Defendant is current in payment of all Membership dues, fees, assessments and costs, including all Client Security Fund assessments and other charges or surcharges that the State Bar is authorized to collect from Defendant, including all judicial district dues, fees and assessments;
- (b) That there is no deficit in Defendant's completion of mandatory CLE hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs;
- (c) Defendant files all state and federal tax returns on a timely basis during each year of the stay and timely pays all amounts owed for those tax years to the taxing authorities. Defendant shall provide written proof of filing and payment to the Office of Counsel within ten days of filing each return or request for extension and within ten days of each payment;

- (d) Defendant executes any written waivers and releases necessary to authorize the Office of Counsel to confer with the IRS or the North Carolina Department of Revenue for the purpose of determining if Defendant has cooperated and complied with all requirements of this Order and does not revoke such waivers or releases during the period of stay;
- (e) Defendant provides to the Office of Counsel copies of all correspondence, including a summary of oral communications, sent to or received by her or her representative from any taxing authority within ten days of receipt;
- (f) Defendant does not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during her suspension;
- (g) Defendant keeps the State Bar Membership Department advised of her current business address. Defendant shall notify the State Bar of any change of address within ten days of such change. Her current business address must be a street address, not a post office box or drawer;
- (h) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of such communication or by the deadline stated in the communication, whichever is sooner;
- (i) Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition which is pending during any stay of the suspension.

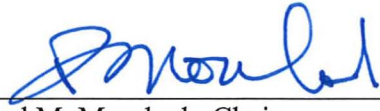
10. If Defendant fails to comply with any one or more of the conditions of the stay of suspension provided in paragraphs 9 (a) – (i) above, the stay of suspension may be lifted in accordance with 27 N.C. Admin. Code 1B.0118(a).

11. If Defendant successfully petitions for a stay of her suspension, Defendant's obligations governing the stay under this Order end after the applicable period of the stay provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension as provided in Rule .0118(a) of the North Carolina Discipline and Disability Rules.

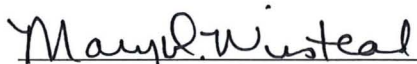
12. If Defendant does not seek a stay of the suspension of her law license or if some part of the suspension is stayed and thereafter revoked, that Defendant must comply with the conditions set out in paragraphs 8(a) – (k) above and the provisions of 27 N.C. Admin. Code 1B .0129 before seeking reinstatement of her license to practice law. Defendant must also show that she has fully paid all accrued indebtedness assessed for prior tax years to the IRS and/or N.C. Department of Revenue and is current in its obligations to file and pay all federal and state tax of any kind. Defendant must demonstrate by clear, cogent and convincing evidence her compliance with the provisions of this paragraph before being reinstated to the practice of law.

13. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B .0118(a) throughout the period of the suspension, any stay thereof.

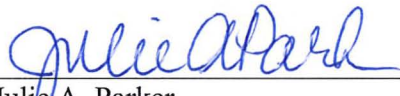
Signed by the Chair with the consent of the other hearing panel members, this the 6th day of June, 2018.


Fred M. Morelock, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:


Mary D. Winstead, Deputy Counsel
Attorney for the North Carolina State Bar


Alan M. Schneider
Attorney for Defendant


Julie A. Parker
Defendant