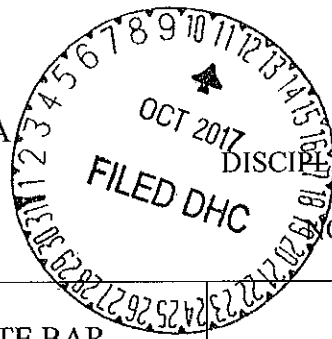


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 29

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

GAVIN A. BROWN, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

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, Gavin A. Brown, was admitted to the North Carolina State Bar in August, 1972 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.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Brown was engaged in the practice of law in the State of North Carolina and maintained a law office in Waynesville, Haywood County, North Carolina.

4. In 1998, Brown prepared a general warranty deed conveying real property from Bennett-Piper Enterprises, Inc., a North Carolina Corporation, Grantor, to Kathleen Curl, Grantee.

5. On or about May 13, 1998, the deed was recorded with the Haywood County Register of Deeds in book 465, page 887.

6. In 2016, when the property was being sold by Kathleen Curl, the buyers' attorney, T. Michael Jordan ("Jordan"), identified an error in the plat book reference in the 1998 deed.

7. Jordan contacted Brown and notified him of the error.

8. Brown prepared a general warranty deed from Bennett-Piper Enterprises, Inc., Grantor, to Kathleen Curl, Grantee, which corrected the plat book reference (“corrective deed”).

9. In 2016, Kendra M. Smathers (“Smathers”) was a licensed notary public in North Carolina and worked for Brown’s law partner.

10. On or about March 23, 2016, Brown forged the signature of Smathers as Notary Public on the corrective deed from Bennett-Piper Enterprises, Inc. to Kathleen Curl.

11. Brown also obtained Smathers’ notary seal without her knowledge or consent and affixed the seal to the corrective deed.

12. The forged signature of Smathers and notary seal purportedly certified that James P. Bennett (“Bennett”), the president of Bennett-Piper Enterprises, Inc., had personally appeared before Smathers and executed the deed.

13. Although Bennett’s signature appears on the corrective deed, Bennett was not aware of the problem with the 1998 deed when Brown prepared the corrective deed.

14. Bennett did not become aware of the problem with the 1998 deed until several months after the corrective deed was recorded.

15. Prior to the corrective deed being prepared and recorded, Bennett had pre-signed several deeds and left them with Brown for transactions unrelated to the property Bennett-Piper Enterprises, Inc. conveyed to Curl in 1998.

16. Brown affixed Smathers’ signature and notary seal to one of the pre-signed deeds.

17. Brown provided the corrective deed with the forged notary signature to the closing attorney.

18. Brown knew when he provided the corrective deed with the forged notary signature to the closing attorney that the closing attorney would record the deed with the Haywood County Register of Deeds.

19. The corrective deed was recorded with the Haywood County Register of Deeds in book 903, page 2367.

20. By signing Smathers’ name to the corrective deed without Smathers’ knowledge or consent, Brown committed the crime of common law forgery.

21. Pursuant to N.C.G.S. § 10B-60(f), “[a]ny person who without authority obtains, uses, conceals, defaces, or destroys the seal or notarial records of a notary is guilty of a Class I felony.”

22. By using Smathers’ notary seal on the corrective deed without Smathers’ authority, Brown violated N.C.G.S. § 10B-60(f).

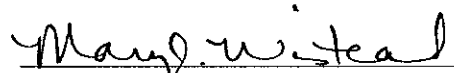
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By forging the signature of the notary on the corrective deed, Brown committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c); and
- (b) By using the notary's seal on the corrective deed without authorization, Brown committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b), and engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c).

WHEREFORE, Plaintiff prays that:

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

The 11th day of October, 2017.



Mary D. Winstead, Deputy Counsel
The North Carolina State Bar
State Bar #9778
P.O. Box 25908
Raleigh, NC 27611
919-828-4620

Attorney for Plaintiff

Signed pursuant to 27 N.C. Admin. Code
1B.0113(n) and 1B.0105(a)(10)



DeWitt (Mac) McCarley, Chair
Grievance Committee