



STATE OF NORTH CAROLINA
WAKE COUNTY

FILED DHC

BEFORE THE DISCIPLINARY
HEARING
COMMISSION OF THE
NORTH CAROLINA STATE BAR
10 DHC 43

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MICHAEL F. EASLEY,
Attorney,

Defendant.

**AMENDED
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
CONSENT ORDER
OF DISCIPLINE**

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Sharon B. Alexander, Chair, and members Steven D. Michael and Joe Castro. Katherine E. Jean represented plaintiff, the North Carolina State Bar. Defendant Michael F. Easley was represented by Alan M. Schneider. Based upon the stipulations of fact and the consent of the parties, the Hearing Panel makes by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina 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 promulgated thereunder.

2. Defendant, Michael F. Easley, (hereinafter "Easley"), was admitted to the North Carolina State Bar on August 22, 1976, 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.

3. During all or a portion of the relevant periods referred to herein, Easley was the Governor of North Carolina. During the relevant periods referred to herein, Easley has not been engaged in the private practice of law.

4. On November 23, 2010, in Wake County Superior Court file no. 10 CRS 18277 (hereinafter referred to as "10 CRS 18277"), Easley pled guilty pursuant to State v. Alford and was convicted of the felony offense of Certification of False Campaign Finance Report in violation of N.C.G.S. 163-278.27(a1).

5. The conviction was based upon an amended campaign finance report that was filed by the Mike Easley Committee on April 17, 2009 and was signed by the treasurer of the committee. Easley did not sign the campaign finance report upon which the conviction is based.

Based upon the preceding findings of fact, this Hearing Panel makes the following

CONCLUSIONS OF LAW

1. Violation of N.C.G.S. 163-278.27(a1) is an offense showing professional unfitness as defined in 27 NCAC 1B .0103(17).

2. By pleading guilty pursuant to State v. Alford and being convicted of the felony offense of Certification of False Campaign Finance Report in violation of N.C.G.S. 163-278.27(a1), Easley violated N.C.G.S. 84-28(b)(1) and Rule 8.4(b) of the Rules of Professional Conduct.

Based upon the foregoing findings of fact and conclusions of law, the Hearing Panel makes by clear, cogent, and convincing evidence, the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The Hearing Panel has considered admonition, reprimand, and censure as potential discipline but concludes that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of harm to the public in the present case. Furthermore, the Hearing Panel concludes that any sanction less than suspension would fail to acknowledge the seriousness of the offense committed by Defendant, would not adequately protect the public and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

2. Easley has no prior professional discipline.

3. Easley was an assistant district attorney in the 13th Prosecutorial District from 1976 until 1982. From 1982 until 1990, Easley served as elected District Attorney of the 13th Prosecutorial District. From 1993 until 2001, Easley was Attorney General of North Carolina. Easley was Governor of North Carolina from 2001 until 2009.

4. At the time the original campaign finance report was filed, Easley was the Governor of North Carolina. At the time the amended campaign finance report was filed, Easley was no longer the Governor of North Carolina.

5. Easley did not sign either the amended campaign finance report or the original report. Easley did not provide or compile the information contained in the original report. Easley was aware that amended campaign finance reports were being filed but did not prepare or file the reports himself. Easley relied on his professional campaign staff to prepare and file the finance reports. Nevertheless Easley believes, and so stated in open court in 10 CRS 18277, that he should take responsibility for the actions of the campaign.

6. The Hearing Panel finds credible Easley's assertion that he did not have actual knowledge of the false or incomplete contents of the original campaign finance report at the time it was filed by his campaign committee and that he did not have actual knowledge that the amended campaign finance report underlying the criminal conviction was false.

7. Easley has cooperated fully in this proceeding, including consenting to imposition of an interim suspension of his law license.

8. Throughout the pendency of this disciplinary action, Easley has accepted responsibility for the content of the campaign finance report underlying the conviction.

9. In 10 CRS 18277, the court imposed a \$1000 fine. The court did not impose any period of incarceration, any community service or any probation.

10. During the sentencing hearing in 10 CRS 18277, the Special Prosecutor made the following statements to the court:

Your Honor, these agents that are seated behind me, as I said earlier, have interviewed hundreds of people. My commission from the Administrative Office of the Courts involved not only campaign finance issues, but non-campaign issues. I did not find any basis to go forward, sufficient evidence to go forward on any non-campaign issue. And, with regard to the campaign finance violations, at the – the things that I looked at primarily took place in 2004 and 2005. There was – campaign money was not used inappropriately, was reported incorrectly in my judgment, and that's what led to this plea, but it was not money that, anywhere, that I have found was used illegally.

11. The Hearing Panel has considered all of the factors contained in 27 NCAC 1B.0114(w)(1) and concludes that the following factor, indicating that suspension or disbarment should be considered, is present:

(E) negative impact of defendant's actions on the public's perception of the profession.

The remaining factors contained in 27 NCAC 1B.0114(w)(1) are not applicable.

12. The Hearing Panel has considered all of the factors contained in 27 NCAC 1B.0114(w)(2) and concludes that the following factor, indicating that disbarment should be considered, is present:

(D) commission of a felony.

The remaining factors contained in 27 NCAC 1B.0114(w)(2) are not applicable.

13. The Hearing Panel has considered all of the factors contained in 27 NCAC 1B.0114(w)(3) and finds that the following factors are present and relevant to the imposition of professional discipline in this case:

(A) absence of prior disciplinary offenses in this state or any other jurisdiction;
(C) absence of dishonest or selfish motive;
(K) full and free disclosure to the hearing panel and cooperative attitude toward the proceedings;
(P) remorse;
(Q) evidence of good character or reputation;
(U) imposition of other penalties or sanctions;
(V) acceptance of responsibility.

The remaining factors contained in 27 NCAC 1B.0114(w)(3) are not applicable.

14. Ordinarily, conviction of a felony warrants imposition of the most severe discipline, often disbarment. This is because felony convictions often involve conduct that reflects dishonest or untrustworthy character and because it is important that the public and other lawyers in North Carolina understand there are serious consequences when a lawyer engages in dishonest conduct or displays character that is not worthy of the public trust. Even when the nature of the felony does not demonstrate dishonesty or a lack of trustworthiness, conviction of any lawyer of a felony undermines the public's confidence in the integrity of the legal profession and therefore necessitates the imposition of significant professional discipline. In the present case, the Hearing Panel finds and concludes that the circumstances justify lesser discipline than would otherwise be appropriate upon conviction of a felony. The factors that particularly warrant lesser discipline include: there is no evidence that Easley had actual knowledge of the false or incomplete content of the original campaign finance report; his denial of such knowledge is credible because he did not sign the original report and because when the original report was prepared and filed he was Governor and was involved in governing the State; the evidence does not support the conclusion that Easley knew the amended campaign finance report underlying the criminal conviction contained false or incomplete information; the felony of which Easley was convicted is a Class I felony, the lowest level felony under North Carolina law; Easley accepts personal responsibility for his own actions and for the actions of his campaign committee; there is no evidence of dishonest conduct or dishonest motive; and Easley is genuinely remorseful.

Based upon the foregoing findings of fact, conclusions of law and additional findings of fact regarding discipline, the Hearing Committee hereby enters the following

ORDER OF DISCIPLINE

1. Michael F. Easley is suspended from the practice of law for two (2) years.
2. Easley shall receive credit toward satisfaction of the two year suspension for the time during which his law license has been subject to interim suspension.
3. Easley 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 him.
4. Easley shall comply with all provisions of 27 NCAC 1B § .0124 of the North Carolina State Bar Discipline & Disability Rules.
5. Easley shall pay the costs and administrative fees of this proceeding as assessed by the Secretary, within 90 days of service of this order upon him.

Signed by the Chair with the consent of the other members of the Hearing Panel, this the 12 day of January, 2012.

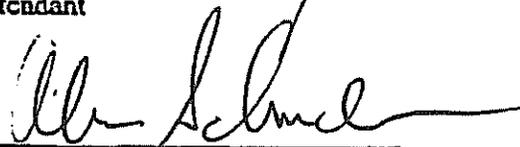


Chair, Disciplinary Hearing Commission Panel

We Consent:



Michael F. Easley
Defendant



Alan M. Schneider
Counsel for Defendant



Katherine E. Jean
Counsel for Plaintiff