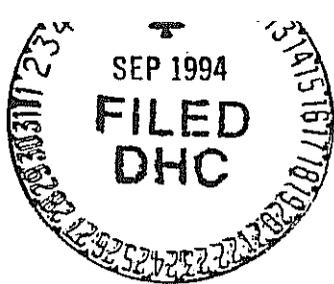


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
94 DHC 9

THE NORTH CAROLINA STATE BAR,)
)
Plaintiff)
)
v.)
)
HARRY L. HEILIG,)
Attorney)
)
Defendant)

FINDINGS OF FACT

AND

CONCLUSIONS OF LAW

This matter was heard on August 26, 1994 by a hearing committee composed of Stephen T. Smith, chairman; Richard L. Doughton, and Frank L. Boushee. Fern E. Gunn represented the North Carolina State Bar. The defendant, Harry L. Heilig, did not file an answer to the State Bar's complaint. The defendant did not appear at the hearing and he was not represented by counsel. Based upon the evidence presented at the hearing, the hearing committee finds the following by clear, cogent, and convincing evidence:

FINDINGS OF FACT

1. The 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. The defendant, Harry L. Heilig, was admitted to the North Carolina State Bar in 1956, and is, and was at all times referred to herein, an attorney at law licensed to practice law 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. The defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in Brunswick County, Sunset Beach, North Carolina.

4. On May 27, 1992, defendant pled guilty to one count of conspiracy to commit wire fraud, a felony, in violation of 18 U.S.C. Section 371. The offense for which defendant pled guilty involved his offering to have a client's prison sentence commuted by bribing public officials in North Carolina and South Carolina at a cost of \$80,000. The United States District Court in South

Carolina found defendant guilty of the crime.

5. On November 9, 1992, defendant was sentenced to 30 months imprisonment. He was also ordered to make restitution to the United States government.

6. Defendant served approximately 18 months of his sentence and he is presently on supervised release in Phoenix, Arizona.

7. On November 25, 1992, defendant filed a notice of intent to appeal to the United States Court of Appeals for the Fourth Circuit. The defendant appealed his sentence, but he did not appeal the conviction.

8. The Fourth Circuit Court of Appeals ruled that defendant was not entitled to a reduction of his sentence and the United States District Court's sentence in defendant's case was affirmed.

9. On or about April 27, 1994, defendant filed a petition for writ of certiorari to the United States Supreme Court. Defendant raised the question of whether the United States District Court imposed an improper sentence under the United States Sentencing Guidelines. Defendant did not appeal his conviction. The United States Supreme Court has not ruled on defendant's petition for writ of certiorari.

10. On July 6, 1994, defendant filed pro se a Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody under 28 U.S.C. Section 2255. The motion has not been heard.

11. For purposes of Section 15 of Article IX of the Discipline and Disbarment Procedures of the North Carolina State Bar, the defendant's conviction is final. Defendant has exhausted his appeal of right. Defendant's appeal to the United States Court of Appeals for the Fourth Circuit and his petition for writ of certiorari challenge his sentence and do not contest his guilt or innocence of the offense to which he pled guilty. Defendant's Section 2255 motion filed on July 6, 1994 is a collateral attack on his sentence and does not affect the finality of his conviction.

12. Defendant was convicted of a criminal offense which is a serious crime as defined in Section 3(UU) of Article IX of the Discipline and Disbarment Procedures of the North Carolina State Bar.

13. The crime that defendant was convicted of is a criminal offense showing professional unfitness.

14. On June 13, 1994, defendant was personally served with the North Carolina State Bar's complaint in this matter in Phoenix, Arizona by APS International, process servers.

15. On July 30, 1994, defendant received notice of the

hearing scheduled for August 26, 1994 by certified mail, restricted delivery. Defendant also received the order of interim suspension entered on July 19, 1994 by Maureen Demarest Murray, chairman of the Disciplinary Hearing Commission, whereby he was suspended from the practice of law pending the disposition of this disciplinary proceeding.

16. The hearing committee read defendant's letter of July 30, 1994 addressed to L. Thomas Lunsford II, executive director of the North Carolina State Bar. In that letter, defendant indicated that he suffered from cardiovascular problems and he would not be able to attend the hearing on August 26, 1994 without permission from his probation officer to travel outside the state of Arizona.

17. Counsel for the State Bar wrote defendant by letter dated August 19, 1994. Defendant was told that the chairman of the hearing committee wanted a letter from defendant's doctor which substantiated defendant's claim that his health problems prevented his travelling to North Carolina for the hearing. This letter was sent to defendant at his address in Arizona by Federal Express on August 19, 1994.

18. Counsel for the State Bar informed the hearing committee that according to personnel at Federal Express, counsel's letter of August 19, 1994 to defendant was left at his door on August 22, 1994 at 3:28 p.m.

19. The hearing committee read a letter dated August 15, 1994 from the defendant to bar counsel which was received at the State Bar office on August 26, 1994. Defendant stated that he would not attend the hearing scheduled for August 26, 1994. He also stated that he did not have permission from his probation officer to travel to North Carolina.

20. Defendant did not state in the July 30 or August 15 letter that he had asked his probation officer for permission to travel to North Carolina for the August 26, 1994 hearing.

21. As of August 26, 1994, bar counsel had not received a letter from defendant's doctor regarding his medical condition.

22. After reviewing documents and letters from defendant, the hearing committee finds that defendant had sufficient notice of this hearing. Defendant also had an opportunity to provide proof to the hearing committee of his inability to attend the hearing on August 26, 1994, but he did not do so. Defendant submitted nothing to bar counsel or the hearing committee to suggest that he had asked his probation officer for permission to travel to North Carolina for the August 26, 1994 hearing and that such request had been denied.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

a) The defendant was convicted of a criminal offense showing professional unfitness in violation of N.C. Gen. Stat. Section 84-28(b)(1) and such conviction reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(B) of the Rules of Professional Conduct.

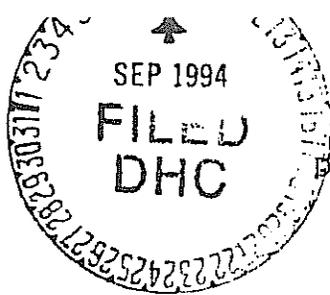
b) By engaging in criminal conduct, defendant has committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 1.2(B) and he has engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) of the Rules of Professional Conduct.

Signed by the undersigned chairman with the knowledge and consent of the other members of the hearing committee, this the 7 day of SEPTEMBER, 1994.



Stephen T. Smith
Chairman
Hearing Committee

NORTH CAROLINA
WAKE COUNTY



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THE NORTH CAROLINA STATE BAR,)
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Plaintiff)
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v.)
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HARRY L. HEILIG,)
Attorney)
)
Defendant)

ORDER OF DISCIPLINE

BASED UPON the Findings of Fact and Conclusions of Law entered in this matter, the hearing committee enters the following ORDER OF DISCIPLINE:

1. Defendant, Harry L. Heilig, is hereby DISBARRED from the practice of law in North Carolina.
2. Defendant shall immediately submit his law license and membership card to the Secretary of the North Carolina State Bar.
3. Defendant shall violate no provisions of the Rules of Professional Conduct of the North Carolina State Bar during his disbarment.
4. Defendant shall not violate the laws of any state or the United States during his disbarment.
5. Defendant shall pay the costs of this proceeding.

Signed by the undersigned chairman with the full knowledge and consent of the other members of the hearing committee, this 7 day of SEPTEMBER, 1994.



Stephen T. Smith
Chairman
Hearing Committee