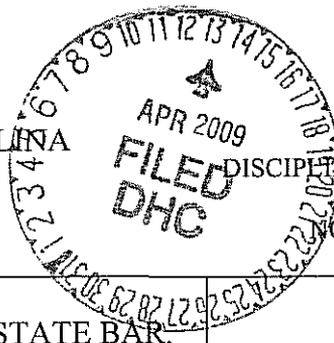


STATE OF NORTH CAROLINA

WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

RACHEL LEA HUNTER, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF DISCIPLINE

This matter was heard on March 20, 2009 before a hearing committee of the Disciplinary Hearing Commission composed of Tommy W. Jarrett, Chair, M. H. Hood Ellis, and Pamela U. Weis. Brian P.D. Oten and Leonor Bailey Hodge appeared on behalf of Plaintiff, the North Carolina State Bar and Josiah Neeley appeared on behalf of Defendant, Rachel Lea Hunter. Based upon the pleadings, the evidence presented at the hearing, and the stipulations of the parties, the hearing committee hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (“Plaintiff” or “the 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, Rachel Lea Hunter (“Defendant”), was admitted to the North Carolina State Bar on January 25, 2002, 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 of the relevant periods referred to herein, defendant was actively engaged in the private practice of law in the city of Durham, Durham County, North Carolina.

4. Beginning before December 2006 and up until November 2008, defendant maintained a website on the internet located at www.rachelforjustice.com (“the website”).

5. The website served, among other things, as an internet-based advertisement supporting defendant's campaign to be elected as a Justice on the Supreme Court of North Carolina in November 2006.

6. The website also served as an internet-based advertisement supporting defendant's campaign to be elected as a Judge on the North Carolina Court of Appeals in November 2008.

7. As of November 2008, the website also served as an internet-based advertisement supporting defendant's campaign to be elected as a Justice on the Supreme Court of North Carolina by means of the election scheduled in 2010.

8. The website contained defendant's political, personal, and legal opinions.

9. From as early as March 10, 2006, defendant referred to herself as "Madame Justice" on the website.

10. From as early as March 10, 2006, the website also contained a forum for visitors to ask questions of defendant entitled, "Ask Madame Justice."

11. On or about February 27, 2006, the North Carolina State Board of Elections informed defendant that it would not list her as a candidate on the ballot for election to the Supreme Court of North Carolina under the nickname "Madame Justice," stating that to do so clearly implied that she was then a female Justice of the Supreme Court.

12. Defendant was not a female Justice of the Supreme Court in February of 2006.

13. The State Board of Elections notified defendant that it found defendant's use of the term "Madame Justice" to be misleading to voters.

14. On or before September 11, 2006, the North Carolina State Bar issued defendant a Letter of Warning informing defendant that the use of the term "Madame Justice" was misleading and constituted a violation of the Rules of Professional Conduct.

15. Despite such notice, defendant continued to use the term "Madame Justice" on her website in various ways between December 13, 2006 and June 10, 2008, including but not limited to as follows:

- a. The website contained a link to the section entitled "Ask Madame Justice."
- b. The website included references to "Madame Justice," and invited visitors to submit questions and stated "[q]uestions submitted by

the campaign will be answered candidly here by ‘Madame Justice’.”

16. On or about July 24, 2007, the website contained a red circle with a line through it over the words “Ask Madame Justice” and contained the words “[d]eleted by the North Carolina Bar In A [sic] Effort to Suppress the First Amendment and Free Speech.”

17. The term “Madame Justice” has historically been used to refer to a female member of the judiciary.

18. The term “Madame Justice” is presently used to refer to a female member of the judiciary.

19. During the time that defendant maintained the website referenced in this complaint she was not a member of the judiciary.

20. Defendant has never been a member of the judiciary.

21. Rule 8.2(b) of the Rules of Professional Conduct requires that a lawyer who is a candidate for a judicial office comply with the applicable provisions of the Code of Judicial Conduct.

22. The applicable provision of the Code of Judicial Conduct is Canon 7(C)(3), which prohibits a judge or candidate from intentionally and knowingly misrepresenting his or her identity or qualifications.

23. The State of North Carolina has a compelling interest to preserve the integrity, impartiality and independence of the judiciary, as well as the integrity of the judicial election process.

Based on the record and the foregoing Findings of Fact, the Hearing Committee makes the following

CONCLUSIONS OF LAW

1. All the parties are properly before the hearing committee and the committee has jurisdiction over Defendant, Rachel Lea Hunter, and the subject matter.

2. Canon 7(C)(3) of the North Carolina Code of Judicial Conduct is a provision narrowly tailored to protect the State’s compelling interest in preserving the integrity of the judiciary and of the judicial election process. Therefore, its prohibition of only intentional and knowing misrepresentation(s) of a judge’s or candidate’s identity or qualifications does not violate the First Amendment of the Constitution of the United States.

3. Defendant's conduct, as set out in the Findings of Fact listed above and made upon clear, cogent, and convincing evidence, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

By referring to herself on the website as "Madame Justice" defendant made an intentional and knowing misrepresentation of her identity and qualifications in violation of Canon 7(C)(3) of the Code of Judicial Conduct which is in violation of Rule 8.2(b) of the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and the stipulations of the parties, the hearing committee hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS REGARDING DISCIPLINE

1. Defendant's misconduct is aggravated by the following factors:
 - a. Selfish motive;
 - b. A pattern of misconduct;
 - c. Refusal to acknowledge wrongful nature of conduct;
 - d. Substantial experience in the practice of law which includes defendant's practice of law in Pennsylvania since 1988 before beginning to practice law in North Carolina;
 - e. Issuance of a letter of warning to the defendant addressing this specific conduct within the three years immediately preceding the filing of the complaint.
2. Defendant's misconduct is mitigated by the following factors:
 - a. Absence of a prior disciplinary record;
 - b. Full and free disclosure to the hearing committee or cooperative attitude toward proceedings;
 - c. Physical impairment.
3. The aggravating factors outweigh the mitigating factors.
4. Defendant's misconduct as set forth in the Findings of Fact caused potential harm to both the public and the profession in that her misrepresentation of her

identity and qualifications while acting as a judicial candidate threatened the integrity of North Carolina's judiciary as well as its electoral process.

5. Since this action has been initiated, Defendant has removed most of the references to "Madame Justice" from her website.

6. The Hearing Committee finds and concludes that Defendant's conduct constitutes more than a minor Rule violation. The Hearing Committee further finds and concludes that under the circumstances of this case Defendant's conduct does not require a Censure and that the public will be adequately protected by issuing a Reprimand to Defendant.

Based upon the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions Regarding Discipline, the hearing committee hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Rachel Lea Hunter, is hereby REPRIMANDED for her misconduct.

2. All costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service of the statement of costs by the Secretary.

Signed by the Chair with the consent of the other hearing committee members,
this the 9th day of April, 2009.



Tommy W. Jarrett, Chair
Disciplinary Hearing Committee