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NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
91 DHC 23
94 DHC 19

THE NORTH CAROLINA STATE BAR,)

Plaintiff)

v.)

NORTHROPE D. RICE,)
Attorney)

Defendant)

CONSENT ORDER OF DISCIPLINE

This matter came on before the hearing committee of the Disciplinary Hearing Commission composed of L. Patten Mason, chairman; Richard L. Doughton, and Frank L. Boushee pursuant to Section 14(H) of Article IX of the Rules and Regulations of the North Carolina State Bar. On October 17, 1994, Susan Letendre filed a grievance against the defendant, which was assigned file number 94G1259. On January 12, 1995, the Grievance Committee of the North Carolina State Bar found probable cause in Ms. Letendre's grievance and directed that the matter be consolidated with the other above referenced cases presently pending before the Disciplinary Hearing Commission. The defendant, Northrope D. Rice, has agreed to waive the filing of a formal complaint and a formal hearing regarding Ms. Letendre's grievance. The defendant has also agreed to waive a formal hearing in the motion for order to show cause in 91 DHC 23 and case number 94 DHC 19. All parties desire to resolve all issues raised in the motion for order to show cause in 91 DHC 23, case number 94 DHC 19, and the grievance file number 94G1259. All parties stipulate that these matters may be resolved by the undersigned hearing committee, that defendant does not contest the following Findings of Fact and Conclusions of Law recited in this Consent Order and the discipline imposed, and that defendant further hereby waives his right to appeal this Consent Order or challenge in any way the sufficiency of the findings. The hearing committee therefore enters the following:

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, Northrope D. Rice, was admitted to the North Carolina State Bar on April 2, 1984 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 North Carolina.

3. During all of the periods referred to herein, defendant was actively engaged in the practice of law in North Carolina and maintained a law office in Wilmington, North Carolina.

4. In late 1985 or early 1986, William L. Floyd retained defendant to represent him in a workers' compensation case.

5. Mr. Floyd received workers' compensation benefits until they were terminated by the Industrial Commission in April 1990. Defendant agreed to appeal the Industrial Commission's decision to the North Carolina Court of Appeals (Court of Appeals).

6. Although defendant gave notice of appeal in Mr. Floyd's case, he did not perfect the appeal with the Court of Appeals.

7. Defendant lied to Mr. Floyd by stating that Mr. Floyd's case was pending in the Court of Appeals. Defendant sent Mr. Floyd a copy of a letter that defendant purportedly sent to the Court of Appeals requesting an update of the status of the appeal which defendant had not perfected.

8. Defendant agreed to file a petition for writ of certiorari in Mr. Floyd's case with the Court of Appeals.

9. Defendant never filed the petition for writ of certiorari with the Court of Appeals.

10. Defendant lied to Mr. Floyd by stating that defendant had filed the petition for writ of certiorari with the Court of Appeals. Defendant sent Mr. Floyd a copy of a letter that defendant purportedly sent to the Court of Appeals to file the petition. Defendant also sent Mr. Floyd a copy of the petition for writ of certiorari which defendant had not filed.

11. Defendant lied to the North Carolina Industrial Commission about Mr. Floyd's case. Defendant advised the Industrial Commission that he had filed an appeal with the Court of Appeals, when he had not. He also told the Industrial Commission that he had filed a petition for writ of certiorari with the Court of Appeals, when he had not.

12. In December 1991, Daisy McFadden retained defendant for

representation in a social security disability and supplemental security income claim because she was denied disability insurance benefits.

13. A hearing on Ms. McFadden's claim was scheduled for August 27, 1992. Defendant was informed of the date of the hearing, but failed to take adequate steps to notify Ms. McFadden.

14. Ms. McFadden did not appear at the scheduled hearing on August 27, 1992.

15. Defendant failed to inform Ms. McFadden that her case would be dismissed for her failure to appear if she did not give the administrative law judge an explanation for her absence from the hearing.

16. Ms. McFadden's request for hearing was dismissed for her failure to appear at the hearing.

17. In December 1992, Steven C. Pope retained defendant for representation in a social security disability benefits case.

18. On June 23 and August 31, 1993, defendant requested that the Social Security Administration (SSA) decide Mr. Pope's case based upon the evidence in the record and without conducting an oral hearing.

19. Defendant did not tell Mr. Pope that he had asked that Mr. Pope's case be decided without an oral hearing.

20. In April 1994, Susan Letendre retained the defendant for representation in a social security disability case.

21. On at least two occasions defendant mailed to Ms. Letendre the form to request a hearing before SSA for her signature. Defendant did not receive the executed form from Ms. Letendre.

22. Defendant did not file the request for hearing on behalf of Ms. Letendre since she did not complete and sign the form.

23. The rules and regulations of SSA allow a representative of a claimant to make any request on behalf of the claimant. Thus, defendant could have requested the hearing on Ms. Letendre's behalf without her signing the form.

24. Defendant should have requested the hearing for Ms. Letendre to preserve her right to a hearing before the SSA and protect her interests in the matter.

25. Defendant's above referenced misconduct occurred during the period of his stayed five-year suspension under the Disciplinary Hearing Commission's order entered in North Carolina

State Bar v. Northrope D. Rice, 91 DHC 23. Such misconduct violates the order of discipline entered in that case in that defendant's five-year suspension was stayed upon the condition that, inter alia, he not violate any rules of ethics of the North Carolina State Bar.

26. Ms. McFadden, Mr. Pope, and Ms. Letendre obtained disability benefits from SSA with the assistance of attorney James Gillespie of Wilmington.

27. Mr. Floyd settled his worker's compensation case on January 27, 1995. The settlement included payment of medical bills incurred from September 24, 1985 to January 27, 1995, a lump sum payment of \$40,000, and \$750.00 per month compensation for his lifetime or 15 years.

Based upon the consent of the parties and the foregoing findings of fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. By not promptly perfecting Mr. Floyd's appeal with the North Carolina Court of Appeals, defendant has failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means permitted by law and the Rules of Professional Conduct in violation of Rule 7.1(A)(1); failed to carry out a contract of employment entered into with a client for professional services, in violation of Rule 7.1(A)(2); prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3); engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D).

2. By lying to Mr. Floyd about appealing his case to the Court of Appeals, defendant has engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C).

3. By lying to the North Carolina Industrial Commission about appealing Mr. Floyd's case to the Court of Appeals, defendant has engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C); engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D); and knowingly made a false statement of law or fact during the representation of a client in violation of Rule 7.2(A)(4).

4. By failing to inform Ms. McFadden of the date of her hearing, defendant has failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1); failed to act with reasonable diligence and promptness in

representing his client; engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D); and prejudiced or damaged his client during the course of the professional relationship, in violation of Rule 7.1(A)(3).

5. By failing to advise Ms. McFadden of the steps she should take to prevent the dismissal of her claim, defendant has failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1); failed to act with reasonable diligence and promptness in representing his client; engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D); and prejudiced or damaged his client during the course of the professional relationship, in violation of Rule 7.1(A)(3).

6. By waiving Mr. Pope's right to an oral hearing in his social security case without informing him and receiving his authorization, defendant has failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1); failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 6(B)(3); prejudiced or damaged his client during the course of the professional relationship, in violation of Rule 7.1(A)(3); and engaged in conduct prejudicial to the administration in violation of Rule 1.2(D).

7. By not taking steps to protect Ms. Letendre's interests in her social security case by defendant filing a request for hearing before the Social Security Administration, defendant has engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D).

FINDINGS IN AGGRAVATION

As aggravating factors, the hearing committee approves and enters the following:

1. prior disciplinary offense;
2. dishonest motive;
3. a pattern of misconduct;
4. substantial experience in the practice of law; and
5. failure to perform community service as ordered by the Disciplinary Hearing Commission in 91 DHC 23.

FINDINGS IN MITIGATION

As mitigating factors, the hearing committee approves and enters the following:

1. defendant experienced personal or emotional problems during the time of his misconduct;
2. defendant demonstrated a cooperative attitude toward these proceedings; and
3. defendant exhibited remorse regarding his misconduct.

Based upon the stipulated findings of fact and conclusions of law entered in this matter, and further based upon the stipulated aggravated and mitigating factors contained herein, and the consent of the parties to the discipline imposed, the hearing committee approves and enters the following:

ORDER OF DISCIPLINE

1. The defendant, Northrope D. Rice, voluntarily surrenders his license and is hereby DISBARRED.

2. In addition to any other conditions of reinstatement required by the North Carolina State Bar, the defendant shall satisfy his tax obligation pursuant to the Internal Revenue Service prior to seeking reinstatement of his law license.

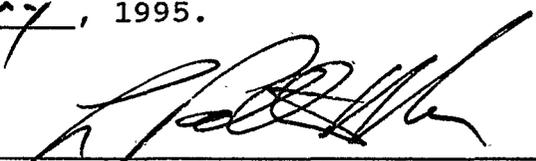
3. Defendant shall violate no Rules of Professional Conduct during his disbarment.

4. Defendant shall violate no state or federal laws during his disbarment.

5. Defendant shall comply with the provisions of Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar regarding winding down his practice. Defendant shall have 60 days from the date of this order to wind down his practice. Defendant shall submit his membership card and law license to the Secretary of the North Carolina State Bar.

6. Defendant shall pay the costs of this proceeding.

Signed by the undersigned chair with the full knowledge and consent of the other members of the hearing committee, this the 24th day of February, 1995.

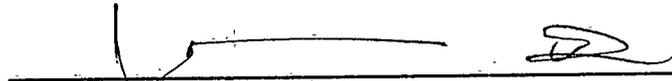
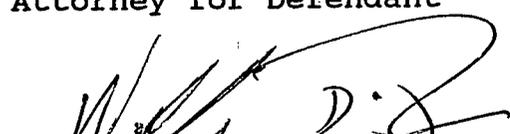


L. Patten Mason, Chair
Hearing Committee

Seen and consented to:



Fern E. Gunn
Attorney for the North Carolina State Bar


Joseph B. Cheshire, V
Attorney for Defendant
Alan M. Schneider
Attorney for Defendant
Northrope D. Rice
Defendant

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