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NORTH CAROLINA
WAKE COUNTY

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

THE NORTH CAROLINA STATE BAR)
Plaintiff)
v.)
JEFFREY M. GULLER, Attorney)
Defendant)

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

This matter came on to be heard and was heard on Thursday, September 9, 1999 before a hearing committee of the Disciplinary Hearing Commission composed of Richard T. Gammon, Joseph G. Maddrey, and Catharine Sefcik. Fern Gunn Simeon represented the North Carolina State Bar. The Defendant, Jeffrey M. Guller, was neither present, nor did counsel appear on his behalf. Based upon the evidence presented by the plaintiff and the pleadings filed herein, the hearing committee makes 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, Jeffrey D. Guller (hereafter Guller), was admitted to the North Carolina State Bar in 1966 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, Guller was actively engaged in the practice of law in North Carolina and maintained a law office in Gastonia, North Carolina.
4. Guller was properly served with process and the disciplinary hearing herein was held with due notice to all parties.

5. Guller did not file an answer or other responsive pleadings to the complaint filed by the North Carolina State Bar in this action.

6. An entry of default was entered in this action by L. Thomas Lunsford II, the Secretary of the North Carolina State Bar, on July 29, 1999.

7. On January 8, 1999, Guller was convicted of five counts of money laundering and one count of conspiracy to launder money in the United States District Court for the Western District of North Carolina. Guller's convictions related to laundering money stolen from an armored car company in 1997.

8. On June 7, 1999, U.S. District Court Judge William L. Osteen Sr. sentenced Guller to 97 months in prison for each of the six charges, with the sentences running concurrently. The court ordered Guller to pay \$1,139,900.00 in restitution. Guller was also ordered to report to prison no later than August 10, 1999. Upon Guller's release from prison, Guller will be on three years' supervised probation.

9. On June 7, 1999, Guller gave notice of appeal of his conviction. There has been no ruling by the courts on Guller's appeal.

10. Guller did not obtain a stay of this disciplinary action pursuant to N.C. G.S. section 84-28(d)(1) and therefore discipline may be imposed without awaiting the outcome of his appeal.

11. As of the date of the hearing on September 9, 1999, Guller was not incarcerated in the federal prison system because Judge Osteen extended Guller's prison reporting date to September 15, 1999.

12. Guller had notice of the proceedings held on September 9, 1999, but he did not attend the hearing.

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the person of Jeffrey M. Guller and over the subject matter of this hearing pursuant to N.C. Gen. Stat. Section 84-28(b)(1) and 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0115.

2. The crimes of which Guller was convicted are serious criminal offenses showing professional unfitness as defined in Rule .0103(17) of the Discipline and Disability Rules of the North Carolina State Bar.

3. Guller's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(1)(2).

4. By laundering money stolen from an armored car company and by conspiring to launder money stolen from the armored car company in violation of 18 U.S.C. Section 1956, Guller has engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 8.4(b), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d) of the Revised Rules of Professional Conduct.

5. The offenses of which Guller was convicted are criminal offenses that reflect adversely on his honesty, trustworthiness, and fitness as a lawyer in other respects in violation of Rule 8.4(b) of the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and argument of the North Carolina State Bar concerning the appropriate discipline, the hearing committee hereby makes the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Guller's misconduct is aggravated by the following factors:
 - a. Guller engaged in multiple violations of the Rules of Professional Conduct.
 - b. Guller had substantial experience in the practice of law at the time of the offenses.
 - c. Guller's misconduct was motivated by dishonesty or a selfish motive.
 - d. Guller has a history of prior discipline. Specifically, he received stayed suspensions from the Disciplinary Hearing Commission in 1989 and 1991 for trust account violations and he received a reprimand from the Grievance Committee in 1995 for neglect of a client's case and lying to the client about the status of his case.
2. The committee finds that there are no mitigating factors.
3. The aggravating factors outweigh the mitigating factors.

ORDER OF DISCIPLINE

1. The Defendant, Jeffrey M. Guller, is hereby disbarred from the practice of law effective 30 days from service of this order upon him.

2. Guller shall surrender immediately his law license and bar membership card to the Secretary of the North Carolina State Bar.

3. During the term of his disbarment, Guller shall violate no laws of the United States or any state.

4. During the term of his disbarment, Guller shall violate no provisions of the Revised Rules of Professional Conduct.

5. Guller shall pay the costs of this action within 30 days of the date of service of the statement of the costs upon him.

6. Guller shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, Sec. .0124 concerning winding down his practice.

Signed by the Chairman with the consent of all hearing committee members.

This the 28th day of September, 1999.


Richard T. Gammon
Chairman
Hearing Committee