

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
09G0999

THE NORTH CAROLINA STATE BAR,
Petitioner

v.

JAMES M. KERNAN, Attorney,
Respondent

ORDER OF
RECIPROCAL DISCIPLINE

Pursuant to the authority vested in me as Chairperson of the Grievance Committee of the North Carolina State Bar by 27 N.C. Admin. Code Chapter 1, Subchapter B, Rules .0105(a)(12) and .0116(b)(4) of the North Carolina State Bar Discipline & Disability Rules, and based upon the record in this matter, the undersigned makes the following

FINDINGS OF FACT:

1. On 30 April 2010, the Supreme Court of New York, Appellate Division, Fourth Judicial Department, issued an order of discipline against James M. Kernan (hereafter, Kernan) regarding Kernan's violation of 18 U.S.C. § 1033(e)(1)(B) and his resulting felony conviction for knowingly permitting a convicted felon to be engaged in the business of insurance. The New York Court suspended Kernan's license to practice law in New York for five years or the term of his federal probation, whichever is longer. A certified copy of the order is attached hereto and incorporated by reference.

2. On 13 December 2010, Kernan was served by certified mail with the North Carolina State Bar's Notice of Reciprocal Discipline Proceeding.

3. More than 30 days have elapsed since Kernan was served with the Notice of Reciprocal Discipline, and Kernan has failed to show cause that imposition of identical discipline in this state would be unwarranted.

Based upon the foregoing findings, the undersigned makes the following

CONCLUSIONS OF LAW:

1. The North Carolina State Bar has jurisdiction over the subject matter of this proceeding and over the person of James M. Kernan.

2. The procedure for imposition of reciprocal discipline pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0116 of the North Carolina State Bar Discipline & Disability Rules has been complied with.

3. Kernan's misconduct as found by the Supreme Court of New York constitutes a violation of N.C. Gen. Stat. § 84-28(b)(1) and of Rule 8.4(b) of the North Carolina State Bar Rules of Professional Conduct and justifies the imposition of reciprocal discipline in this state.

4. The equivalent discipline imposed by the Supreme Court of New York should be imposed on Kernan's right to practice law in the State of North Carolina.

THEREFORE IT IS HEREBY ORDERED THAT:

1. James M. Kernan is hereby suspended from the practice law in North Carolina for five years, or the duration of his federal probation, whichever is longer. The period of suspension shall begin on the date of service of this order upon Kernan.

2. Kernan shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 10 days following service of this order upon Defendant.

3. Kernan shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Kernan shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

4. After five years of active suspension or when his federal probation terminates (whichever is later), Kernan may apply to be reinstated to the practice of law by filing a petition with the Secretary of the North Carolina State Bar demonstrating compliance with the general provisions for reinstatement set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B § .0125(b) and demonstrating the following by clear, cogent, and convincing evidence:

- a. That he properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B § .0124 of the State Bar Discipline & Disability Rules;
- b. That he paid the costs of this proceeding within 30 days of service of the statement of costs upon him;
- c. That he has kept the North Carolina State Bar Membership Department advised of his current business and home address;
- d. That he has responded to all communications from the North Carolina State Bar received after the effective date of this order within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and

e. That he has not violated the Rules of Professional Conduct or the laws of the United States or any state.

5. Kernan is taxed with the costs of this proceeding as assessed by the Secretary.

This the 11 day of February, 2011.

A handwritten signature in black ink, appearing to read 'Ronald G. Baker', written over a horizontal line.

Ronald G. Baker, Chair
Grievance Committee