



NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
21 DHC 25

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARK E. RAYNOR, Attorney,

Defendant

CONSENT ORDER
OF DISCIPLINE

This matter came before the undersigned Chair of the Disciplinary Hearing Commission composed of Stephanie Davis, Chair, and members, Jaye P. Meyer and Heath Jenkins. Alex G. Nicely and Thomas L. Crosby represented Plaintiff, the North Carolina State Bar. Defendant, Mark E. Raynor, was represented by Alan M. Schneider. Defendant waives a formal hearing in this matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this order, and consent to the discipline imposed by this order. By consenting to the entry of this order, Defendant knowingly, freely, and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings and conclusions herein.

Based on the pleadings and the stipulated facts, and with the consent of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Mark E. Raynor ("Defendant") was licensed to practice law in North Carolina on September 1, 1974 and is and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Jacksonville, Onslow County, North Carolina.

4. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

5. In 2019, Defendant represented M.S. in a criminal case.

6. On June 3, 2019, Defendant met with M.S. at the Onslow County courthouse. While at the courthouse, Defendant informed M.S. that her case would need to be continued.

7. After M.S. expressed concern about the cost of traveling to and from court, Defendant stated that he could help M.S. if she gave him "some business." When M.S. asked Defendant to clarify his statement, he stated, "You know, some business" and told M.S. to "think about it."

8. M.S. interpreted Defendant's statement, set forth in paragraph 6 above, as a request for M.S. to perform sexual acts on Defendant in exchange for compensation.

9. In a June 6, 2019 telephone conversation, Defendant asked whether M.S. had thought about their previous conversation. M.S. replied: "I don't do that" and ended the call.

10. In a June 11, 2019 telephone conversation with Defendant, M.S. again expressed concern about her financial situation. Defendant replied by asking: "What about the business we talked about? Well, do you want to come by?"

11. M.S. agreed to meet with Defendant at his law office and told him that she would take an Uber ride to get there.

12. In the evening of June 11, 2019, M.S. met with Defendant at his law office.

13. M.S. asked Defendant: "What are we going to do?"

14. Defendant replied: "Well, nothing that's going to be illegal. I'm not looking for any kind of oral, anal or vaginal intercourse."

15. When M.S. asked Defendant what he was looking for, Defendant stated: "Just a hand job."

16. Defendant offered to pay M.S. \$100.00 in exchange for her performing the sexual act described in paragraph 14 above. Defendant also offered to give M.S. an additional \$60.00 as reimbursement for her Uber ride.

17. M.S. left Defendant's law office without performing any sexual acts on Defendant or receiving any money from Defendant.

18. As a result of the conduct described above, Defendant was charged with misdemeanor counts of Solicitation of Prostitution and Common Law Obstruction of Justice in Onslow County, North Carolina.

19. On February 20, 2020, Defendant pled guilty to and was convicted of misdemeanor Solicitation of Prostitution in violation of N.C. Gen. Stat. § 14-205.1 in Onslow County file number 19CR 53434. Defendant received a 10-day suspended sentence upon his guilty plea. Pursuant to the plea agreement, the State dismissed the Obstruction of Justice charge against Defendant.

20. The crime to which Defendant pled guilty is a criminal offense showing professional unfitness as defined in 27 N.C. Admin. Code 1B § .0103(17).

Based upon the foregoing Findings of Fact and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the DHC has jurisdiction over Defendant, Mark E. Raynor, and over the subject matter of this proceeding.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline as follows:

- a) Pursuant to N.C. Gen. Stat. § 84-28(b)(1) in that Defendant was convicted of, and tendered a plea of guilty to, a criminal offense showing professional unfitness; and
- b) Pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:
 - i. By unlawfully and willfully soliciting his client, M.S., to touch the sexual organ of Defendant, which is sexual contact as defined by N.C. Gen. Stat. § 14-27.20, for the purpose of sexual arousal or gratification and in exchange for money, Defendant solicited another for prostitution, thereby committing a criminal act pursuant to N.C. Gen. Stat. § 14-205.1(a) that reflects adversely on a lawyer's honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b); and
 - ii. By attempting to cause his current client, M.S., to touch the sexual or other intimate parts of Defendant for the purpose of arousing or gratifying Defendant's own sexual desire and in exchange for money, Defendant engaged in a representation that was materially limited by his own personal interest in violation of Rule 1.7(a)(2), attempted to have sexual relations with a current client, which constitutes an attempted violation of Rule 1.19(a) in violation of Rule 8.4(a), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

Based upon the Findings of Fact, Conclusions of Law, and with the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. The findings of fact and conclusions of law above are reincorporated as if set forth herein.

2. Defendant's misconduct caused the potential for significant harm to his client and the administration of justice. Defendant violated the trust inherent in the attorney-client relationship by putting his own sexual desires above the best interests of his client. By encouraging and soliciting his client to engage in illegal conduct, Defendant risked causing significant harm to his client and the administration of justice for his own benefit.

3. At the time of Defendant's conduct, he knew or should have known that his actions would create the potential for significant harm to his client and the administration of justice. Defendant's conduct was of such a nature that it should have been obvious to Defendant that the conduct was exploitive of his client's reliance upon him and would result in a conflict of interest.

4. Clients are entitled to attorneys they can trust to act with commitment and dedication to their interests in their legal matters. Defendant betrayed his client's trust. Defendant's conduct reflects negatively on his integrity.

5. Defendant's conduct demonstrates a disregard for the necessary professional boundaries between attorney and client.

6. Defendant's criminal conduct caused the potential for significant harm to the legal profession and the public's perception of the legal profession, as it shows a disregard for his obligations as an attorney and an officer of the court. The public expects that attorneys will abide by the law and Defendant's conduct shows a disregard for his obligation to obey the laws of this State.

7. Defendant entered into a plea agreement with the State of North Carolina resolving the criminal charges without a trial.

8. Defendant has accepted responsibility for his behavior, as indicated by his guilty plea, his admission to every allegation contained within the Complaint and his acknowledgement that his actions violated the Rules of Professional Conduct.

9. Defendant expressed remorse for his actions and was cooperative throughout the State Bar's investigation of this matter.

10. Defendant has no prior professional discipline with the State Bar.

11. Defendant enjoys an otherwise good reputation in the legal community.

Based upon the Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline, and with the consent of the parties, the Hearing Panel enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1) of the Discipline and Disability Rules of the North Carolina State Bar and concludes that the following factors that warrant suspension or disbarment are present:

- a) Intent of the Defendant to commit acts where the harm or potential harm is foreseeable;
- b) Circumstances reflecting on the Defendant's lack of trustworthiness or integrity;
- c) Elevation of Defendant's own interests above that of the client;
- d) Negative impact of Defendant's actions on the client's or public's perception of the profession;

- e) Negative impact of Defendant's actions on the administration of justice; and
- f) Impairment of the client's ability to achieve the goals of the representation.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(2) of the Discipline and Disability Rules of the North Carolina State Bar and concludes that no factors are present that warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(3) of the Discipline and Disability Rules of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- a) Selfish motive;
- b) Cooperative attitude toward the proceedings;
- c) Good character and reputation in the legal community;
- d) Remorse; and
- e) Vulnerability of the victim.

4. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient. The Hearing Panel concludes that such discipline would fail to acknowledge the seriousness of the violations committed by Defendant, would not sufficiently protect the public and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline and Conclusions Regarding Discipline, and with the consent of the parties, the Hearing Panel enters the following:

ORDER OF DISCIPLINE

1. Defendant, Mark E. Raynor, is hereby suspended from the practice of law for four years, effective sixty days from service of this Order upon Defendant.

2. Defendant shall surrender his law license and membership card to the Secretary of the North Carolina State Bar no later than sixty days following service of this Order upon Defendant.

3. Defendant shall comply with all requirements of 27 N.C. Admin. Code 1B.0128, including the wind-down provisions contained therein.

4. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within ten days of the effective date of this Order, certifying he has complied with the provisions of 27 N.C. Admin. Code 1B.0128.

5. Within ten days of the effective date of this Order, Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of their files can communicate with Defendant and obtain such files, and Defendant shall promptly return all files

to clients upon request. Defendant shall promptly refund any unearned or excessive fees due to clients in accordance with Rules 1.5 and 1.16 of the Rules of Professional Conduct.

6. Defendant shall keep the North Carolina State Bar Membership Department advised of Defendant's current physical address, telephone number and e-mail address, and notify the Bar of any change within ten days of such change.

7. Defendant shall respond to all communications from the State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner.

8. Within 120 days of entry of this Order, Defendant shall undergo an evaluation by a board-certified psychiatrist, psychologist, or counselor (collectively "Clinician") who has been approved in advance by the Office of Counsel and who has expertise in evaluating sexual misconduct or sexual boundary violations in the legal profession or another profession involving a similar fiduciary relationship. Defendant shall provide written release to the Office of Counsel authorizing the Clinician to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the Clinician's treatment recommendations. Defendant shall not revoke these releases during the period of the suspension or any stay thereof. Defendant shall ensure that the Clinician provides a comprehensive written report of the Clinician's evaluation of Defendant to the Office of Counsel within 30 days after the evaluation has been completed. The report shall identify what mental, psychological, behavioral or cognitive factors contributed to Defendant's misconduct and shall recommend appropriate treatment to address and modify the identified factors contributing to Defendant's misconduct. Defendant shall comply with all treatment recommendations made by the Clinician, subject to the terms listed in paragraphs 9 and 10 of this section of the Order.

9. Defendant shall provide written releases to the Office of Counsel authorizing all providers from whom he receives treatment for any psychological, emotional, or behavioral condition during the period of the suspension and stayed suspension (collectively "Provider") to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the Provider's treatment recommendations. Defendant shall not revoke these releases during the period of the suspension or any stay thereof. Defendant shall ensure that each Provider from whom he receives treatment for any psychological, emotional, or behavioral condition sends written reports to the State Bar Office of Counsel on a quarterly basis, with such reports being due on January 30, April 30, July 30 and October 30 of each year. These reports shall describe all treatment recommendations made by the Provider and shall confirm whether Defendant is in compliance with the Provider's treatment recommendations.

10. Defendant shall comply with all treatment recommendations made by the Clinician and all Providers throughout the duration of the suspension and any stay thereof, or until such time that Defendant provides the State Bar with written certifications under oath by the Clinician and each Provider that in their professional opinion: (1) Defendant currently does not have any mental, psychological, behavioral or cognitive conditions or disorders that significantly impair his professional judgment, performance or competence as an attorney; (2) Defendant does not currently pose a sexual threat to his female clients; and (3) ongoing treatment and counseling is no longer needed.

11. Defendant is solely responsible for the payment of all costs associated with paragraphs 8 through 10 of this section of the Order.

12. Defendant is taxed with the costs and administrative fees of this action as assessed by the Secretary. Defendant shall pay the costs and administrative fees within ninety days of service of the statement of costs and administrative fees upon him.

13. Two years from the effective date of this Order, Defendant may apply for a stay of the remainder of the suspension upon the filing of a petition ("Petition") with the DHC at least thirty days before any proposed effective date of the stay and demonstrating by clear, cogent and convincing evidence the following:

- a) Defendant timely complied with paragraphs 2 – 12 of this section of the Order;
- b) Defendant has complied with the provisions for reinstatement after suspension listed in 27 N.C. Admin. Code 1B.0129(b) of the North Carolina State Bar Discipline & Disability Rules;
- c) Defendant is current in payment of all Membership dues, fees, and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from Defendant, and including all judicial district dues, fees and assessments;
- d) There is no deficit in Defendant's completion of CLE hours, in reporting such hours or in payment of any fees associated with attendance at CLE programs;
- e) Defendant has not violated the Rules of Professional Conduct, the laws of the United States or the laws of any state or local government during Defendant's suspension.

14. If Defendant is not granted a stay of Defendant's suspension, or if some part of the suspension is stayed and thereafter the stay is lifted, Defendant must comply with the requirements of paragraphs 13(a) through 13(e) above before being reinstated to the practice of law, and must provide in any petition for reinstatement clear, cogent and convincing evidence demonstrating Defendant's compliance therewith.

15. If Defendant successfully petitions for a stay of the suspension of Defendant's law license, such stay will continue in force only so long as Defendant complies with the following conditions:

- a) For the duration of the stay, Defendant shall ensure that a third party is present at any time Defendant meets with a female client. For the purposes of this condition, meetings shall include all in-person interactions between Defendant and his female clients, except where such interactions occur in a courtroom during an open session of court or in another public common area of a courthouse. Defendant shall comply with and submit to all measures by the State Bar to monitor and determine compliance with the terms of this condition, including, but not limited to, complying with the following:

- i. Defendant shall provide to the Office of Counsel a complete list of all female clients with whom Defendant met during each calendar month for the duration of the stay, including the date and time of each client interaction and the address and telephone number for each client. The list shall also include the names and contact information for any third parties who were present when Defendant met with each female client on the list. Defendant shall provide this list no later than the fifteenth day of each month during the duration of the stay; and
 - ii. If Defendant does not meet with female clients during any month in which he is required to submit the reports described in subparagraph i above, Defendant shall instead execute and submit an affidavit to the Office of Counsel by the fifteenth day of each month affirming that Defendant did not meet with any female clients during the previous month.
- b) If a Clinician and/or Provider recommends ongoing treatment pursuant to paragraphs 8 and 9 of this section of the Order, Defendant shall comply with the treatment recommendations of any such Clinician and/or Provider. Defendant shall ensure that each Provider submits the quarterly reports described in paragraph 9 of this section of the Order, on the schedule set out in that same paragraph. Defendant's obligations under this paragraph shall be in effect for the time periods set out in paragraph 10 of this section of the Order;
 - c) Defendant shall provide the written releases described in paragraphs 8 and 9 of this section of the Order and shall not revoke said releases during the period of the stayed suspension;
 - d) Defendant is solely responsible for the payment of all costs associated with the requirements of paragraphs 15(a) through 15(c) above;
 - e) Defendant shall keep the North Carolina State Bar Membership Department advised of Defendant's current physical business address, telephone number and e-mail address, and shall notify the Bar of any change within ten days of such change;
 - f) Defendant shall accept all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar;
 - g) Defendant shall provide full and complete responses to all letters of notice and requests for information from the North Carolina State Bar within thirty days of receipt of the communication or by the deadline stated in the communication, whichever is sooner;
 - h) Defendant shall timely comply with all State Bar continuing legal education requirements and pay all fees and costs assessed by the applicable deadline;
 - i) Defendant shall pay all membership dues, fees, costs and assessments, including all Client Security Fund assessments and other charges or surcharges

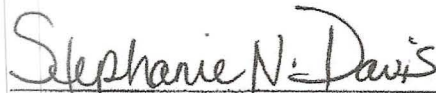
the State Bar is authorized to collect from him, including all judicial district dues and assessments, by the applicable deadline; and

- j) Defendant shall not violate the Rules of Professional Conduct, the laws of the United States or the laws of any state or local government during the period of the stay.

16. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraphs 15(a) through 15(j) above, the stay of the suspension may be lifted as provided in 27 N.C. Admin. Code 1B.0118.

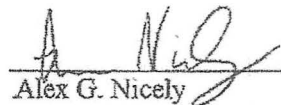
17. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B.0118 throughout the suspension, and any stay thereof, and until all conditions of this Order have been satisfied.

Signed by the Disciplinary Hearing Panel Chair with the consent of the other hearing panel members, this the 14th day of January, 2022.



Stephanie N. Davis, Chair
Disciplinary Hearing Panel

AGREED AND CONSENTED TO BY:



Alex G. Nicely
Attorney for Plaintiff



Alan M. Schneider
Attorney for Defendant



Thomas L. Crosby
Attorney for Plaintiff



Mark E. Raynor
Defendant