

STATE OF NORTH CAROLINA

COUNTY OF WAKE



BEFORE THE
DISCIPLINARY HEARING
COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 42_SC2

THE NORTH CAROLINA STATE BAR,
Plaintiff,

v.

MEREDITH P. EZZELL,
Defendant.

CONSENT ORDER TO ACTIVATE
SUSPENSION

THIS MATTER was heard on September 12, 2022 before a Hearing Panel of the Disciplinary Hearing Commission (DHC) composed of Maya Madura Engle, Chair, Margaret M. Hunt, and Jane B. Weathers, upon Plaintiff's Motion to Activate Suspension. Alex G. Nicely and Jessica M. Arnold represented Plaintiff, the North Carolina State Bar. Defendant, Meredith P. Ezzell, appeared *pro se*. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this Order and to the disposition imposed. By consenting to the entry of this Order, Defendant waives any right to appeal this Order or to challenge in any way the sufficiency of the findings.

Based upon the pleadings and the consent of the parties, the Hearing Panel hereby finds by the greater weight of the evidence the following:

FINDINGS OF FACT

1. On February 28, 2019, the DHC entered a Consent Order of Discipline ("Order of Discipline") finding that Defendant violated the Rules of Professional conduct by failing to diligently represent her clients, failing to adequately communicate with her clients, charging fees for services not performed, failing to refund unearned fees, allowing her nonlawyer paralegal to provide legal services, failing to perform trust account reconciliations, failing to review bank statements and cancelled checks, failing to complete and sign transaction reviews, and engaging in conduct prejudicial to the administration of justice.

2. The Order of Discipline suspended Defendant's license to practice law for three years and stayed the suspension for three years on the condition that Defendant comply with the conditions specified in the Order. The Order of Discipline became effective on April 5, 2019.

3. The stay of Defendant's suspension was contingent upon conditions set forth in the Order of Discipline, including:

- (a) Defendant shall provide full and complete responses to all letters of notice and requests for additional information from the State Bar within thirty days of receipt of the communication or by the deadline stated in the communication, whichever is sooner;
- (b) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay; and
- (c) Defendant shall not violate the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the stay.

4. On August 7, 2020, the State Bar filed a Motion for Order to Show Cause, alleging Defendant failed to comply with several conditions of the Order of Discipline.

5. On September 7, 2020, the DHC issued an Order to Show Cause to Defendant.

6. On October 28, 2020, the DHC entered a Consent Order to Extend Stay of Suspension ("Order to Extend Stay") in file number 18 DHC 42_SC, finding that Defendant failed to comply with several conditions of the Order of Discipline. The DHC extended the stay of Defendant's three-year suspension for an additional eighteen months until August 31, 2023.

7. The Order to Extend Stay set forth that the conditions of the stay outlined in the Order of Discipline would apply throughout the term of the extended stay. The Order to Extend Stay further set forth that if Defendant failed to comply with one or more of the conditions set out in the Order of Discipline or the Order to Extend Stay, then the stay of suspension may be lifted in accordance with 27 N.C. Admin Code 1B.0118.

8. Defendant was served with the Order to Extend Stay on November 11, 2020.

Income Tax Violations

9. During calendar years 2018 and 2019, Defendant's income exceeded the minimum threshold above which an individual is required to file federal and state income tax returns. For these years, Defendant was aware of the deadlines for filing state and federal tax returns and paying any tax liability.

10. Defendant failed to file, within the times required by law, federal and state income tax returns showing her tax liability for tax year 2018.

11. Defendant failed to pay, within the times required by law, her federal and state income tax liability for tax years 2018 and 2019.

12. Willful failure to file and pay federal income tax within the time required by law is

a criminal offense pursuant to 26 U.S.C. § 7203.

13. Willful failure to file and pay North Carolina income tax within the time required by law is a criminal offense pursuant to N.C. Gen. Stat. § 105-236(a)(9).

14. By willfully failing to file and pay her federal and state income taxes, Defendant committed criminal acts that reflect adversely on her honesty, trustworthiness and fitness as a lawyer in violation of Rule 8.4(b) of the Rules of Professional Conduct.

Employment Tax Violations

15. During all or part of the first and second quarters of 2019, Defendant operated a law firm in New Hanover County, North Carolina and employed one or more employees who provided services for the benefit of Defendant's law firm.

16. When Defendant paid employees of her law firm, she was required by law to withhold funds from her employees' wages to pay the employees' Social Security, Medicare and federal income taxes (collectively "federal employment taxes"). Defendant was required by law to timely pay over to the Internal Revenue Service ("IRS") the federal employment taxes withheld from the wages of her employees.

17. When Defendant paid employees of her law firm, she was required by law to withhold funds from her employees' wages to pay the employees' state income taxes ("state employment taxes"). Defendant was required by law to pay over to the North Carolina Department of Revenue ("NCDOR") the state income taxes withheld from the wages of her employees.

18. Willful failure to collect, truthfully account for, or pay over any tax imposed by the Internal Revenue Code is a criminal offense pursuant to 26 U.S.C. § 7202.

19. Willful failure to collect, truthfully account for, or pay over any tax imposed by the NCDOR is a criminal offense pursuant to N.C. Gen. Stat. § 105-236(a)(8).

20. For the first two quarters of 2019, Defendant willfully failed to collect, truthfully account for, and/or timely pay over to the IRS and the NCDOR amounts due for federal and state employment taxes for her law firm's employees. In doing so, Defendant committed criminal acts that reflect adversely on her honesty, trustworthiness and fitness as a lawyer in violation of Rule 8.4(b) of the Rules of Professional Conduct.

Representation of Client R.L.

21. In 2014, R.L. retained Defendant for representation in a Chapter 13 bankruptcy matter.

22. Pursuant to her Chapter 13 bankruptcy plan, R.L. made monthly payments of \$480.00 for a period of five years.

23. On June 20, 2019, the bankruptcy Trustee notified Defendant that R.L.'s bankruptcy plan was nearing completion and directed Defendant to serve R.L. with a form entitled "Chapter 13 Certifications Regarding Domestic Support Obligations, Discharges in Prior Cases, and Section 522(q)" ("Discharge Certification"). The Trustee also notified Defendant that the Discharge Certification was due by July 11, 2019, and that a failure to file the form could result in R.L.'s case being closed without entry of a discharge.

24. On June 22, 2019, Defendant told R.L. that her bankruptcy plan had been completed.

25. Defendant failed to timely serve R.L. with the Discharge Certification form and failed to timely file the Discharge Certification on R.L.'s behalf.

26. As a result of Defendant's failures, R.L.'s bankruptcy case was closed without discharge on August 27, 2019.

27. Defendant did not inform R.L. that she failed to timely file the Discharge Certification and that R.L.'s bankruptcy case had been closed without discharge.

28. By failing to serve R.L. with the Discharge Certification form and failing to file the Discharge Certification on R.L.'s behalf, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 of the Rules of Professional Conduct.

29. By failing to inform R.L. that the Discharge Certification was due by July 11, 2019, failing to inform R.L. that Defendant had not timely filed the Discharge Certification form on R.L.'s behalf and failing to inform R.L. that her bankruptcy case had been closed without discharge, Defendant failed to keep her client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) of the Rules of Professional Conduct.

Failure to Respond to State Bar Demands for Information

30. On November 17, 2020, the State Bar served Defendant with two letters in connection with two disciplinary matters ("November 17, 2020 letters"). In each letter, Defendant was instructed to submit a written response to the allegations contained in the letter within fifteen days of service of the letter upon her.

31. Defendant did not respond to either of the November 17, 2020 letters within fifteen days of service.

32. On February 1, 2021, the State Bar sent Defendant an email reminding her that her responses to the November 17, 2020 letters were past due.

33. Two days later, Defendant sent an email to the State Bar in which she claimed that she had no record of receiving the November 17, 2020 letters. Defendant further stated, "If you could forward me the [November 17, 2020 letters], I will do my best to respond no later than February 8, 2021." On that same day, the State Bar again served Defendant with copies

of the November 17, 2020 letters.

34. On February 9, 2021, the State Bar sent Defendant an email requesting additional documentation in connection with one of the disciplinary matters described in paragraph 32 above.

35. On February 18, 2021, Defendant submitted a response to one of the November 17, 2020 letters. When submitting her response, Defendant failed to provide some of the documentation requested by the State Bar in its February 9, 2021 email.

36. As of the date of this motion, Defendant still has not submitted a response to one of the November 17, 2020 letters and still has not provided some of the documentation requested by the State Bar in its February 9, 2021 email.

37. On April 1, 2021, the State Bar sent Defendant an email requesting further documentation in connection with one of the disciplinary matters described in paragraph 32 above.

38. Defendant failed to respond to the State Bar's April 1, 2021 email and failed to provide any of the documentation requested therein.

39. On August 5, 2021, the State Bar served Defendant with a letter in connection with a third disciplinary matter ("August 5, 2021 letter"). Defendant was instructed to submit a written response to the allegations contained in the letter within fifteen days of service and to provide the State Bar with specific documentation when submitting her response.

40. Defendant failed to respond to the State Bar's August 5, 2021 letter and failed to provide any of the documentation requested therein.

41. By failing to provide full and complete responses to the State Bar's written demands for information and documentation in connection with three disciplinary matters, Defendant knowingly failed to respond to lawful demands for information from a disciplinary authority in connection with disciplinary matters in violation of Rule 8.1(b) of the Rules of Professional Conduct.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Panel has jurisdiction over Defendant, Meredith P. Ezzell, and over the subject matter of this proceeding.
2. Defendant failed to comply with the following conditions of the stay of her suspension:
 - (a) Defendant shall provide full and complete responses to all letters of notice and requests for additional information from the State Bar within thirty days

of receipt of the communication or by the deadline stated in the communication, whichever is sooner;

- (b) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay; and
- (c) Defendant shall not violate the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the stay.

3. Defendant's failure to comply with the conditions of the stay of her suspension as required by the Order of Discipline and the Order to Extend Stay warrants activation of the suspension of her law license.

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

ORDER

1. The stay of Defendant's suspension is lifted and the suspension previously imposed is activated. This Order and the suspension imposed herein are effective 30 days after service of this Order upon Defendant.

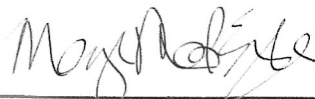
2. All costs and administrative fees of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service upon her of the statement of costs by the Secretary.

3. Defendant shall submit her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following the date this Order is served upon her. Defendant shall comply with all requirements of 27 N.C. Admin. Code 1B.0128, including the wind-down provisions contained therein.

4. At the expiration of the three-year active suspension, Defendant may petition for reinstatement of her license as set forth in 27 N.C. Admin. Code 1B.0129. Additionally, Defendant must establish by clear, cogent, and convincing evidence prior to being reinstated to the practice of law those items listed in paragraphs 5(a) through 5(p) in pages 8-10 of the Order of Discipline.

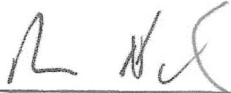
Signed by the undersigned Chair of the Disciplinary Hearing Panel with the consent of the other Hearing Panel members.

This the 9th day of September, 2022.

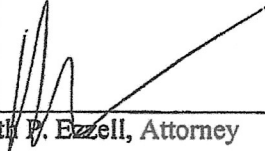


Maya Madura Engle, Chair
Disciplinary Hearing Panel

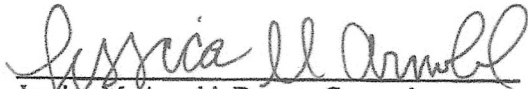
CONSENTED TO BY:



Alex G. Nicely, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar



Meredith P. Ezzell, Attorney



Jessica M. Arnold, Deputy Counsel
Attorney for Plaintiff
The North Carolina State Bar