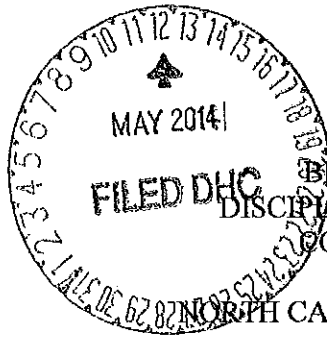


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING
COMMISSION
OF THE
NORTH CAROLINA STATE BAR
14 DHC 5

THE NORTH CAROLINA STATE BAR,

Plaintiff,

v.

GEORGE REXFORD GORE, Attorney,

Defendant.

CONSENT ORDER
OF DISCIPLINE

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, Renny W. Deese, and Scott A. Sutton pursuant to 27 N.C.A.C. 1B §.0114 of the North Carolina State Bar Discipline and Disability Rules. Plaintiff was represented by Deputy Counsel Margaret Cloutier. Defendant, George Rexford Gore, 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 discipline imposed. By consenting to the entry of this order, Defendant waives any right to appeal this consent order or challenge in any way the sufficiency of the findings.

Based upon the pleadings and the admissions, and with consent of the parties, the hearing panel finds by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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 Discipline and Disability Rules of the North Carolina State Bar promulgated thereunder.

2. Defendant, George Rexford Gore (also known as Rex Gore, membership number 8780), was admitted to the North Carolina State Bar on August 19, 1979, 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

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the North Carolina State Bar, and the Rules of Professional Conduct. On August 28, 2013, the Superior Court of Brunswick County entered an order suspending Defendant's law license for six months. On February 21, 2014, the Chair of the DHC filed a Consent Order of Interim suspension suspending Defendant's license until the conclusion of all disciplinary proceedings relating to this matter.

3. At the times of the events alleged in this complaint, Defendant was actively engaged in the practice of law in the State of North Carolina and was the elected district attorney for the Thirteenth Prosecutorial District.

4. In 2005 Defendant hired Elaine Kelley ("Kelley") to serve as an assistant district attorney in the Thirteenth Prosecutorial District.

5. Defendant and Kelley entered into an agreement whereby Kelley, in addition to salary, would be compensated by receiving reimbursement from the North Carolina Administrative Office of the Courts for mileage she did not incur.

6. Defendant and Kelley agreed that Kelley would submit to the Administrative Office of the Courts expense reports representing that each week she had driven between the courthouses in Elizabethtown and Bolivia, North Carolina, although Defendant and Kelley knew that Kelley's duties would not require her to make that drive.

7. After entering into this agreement with Defendant, Kelley submitted to the Administrative Office of the Courts sixty-three expense reports containing false certifications of mileage.

8. Gore signed, or caused to be signed, each certification of mileage below the words "I have examined this reimbursement request and certify that it is just and reasonable."

9. Kelley received reimbursement of \$14,190.39 from the Administrative Office of the Courts for mileage she had not driven.

10. Defendant facilitated and condoned Kelley's submission of these false expense reports.

11. Defendant instructed his administrative staff to facilitate Kelley's submission of these false expense reports and receipt of the false reimbursements.

12. On August 19, 2013, Respondent entered a plea of guilty to the criminal offense of willful failure to discharge duties, a misdemeanor.

Based upon the foregoing Findings of Fact, the hearing panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over Defendant, George Rexford Gore, and the subject matter of this proceeding.

2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C.G.S. §84-28(b)(1) and (2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By entering into an agreement with Kelley whereby Kelley would submit false certifications for reimbursement of mileage she did not incur and whereby Kelley would accept and retain funds as reimbursement for mileage she did not incur, Defendant knowingly assisted or induced another to violate the Rules of Professional Conduct in violation of Rule 8.4(a), committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
- (b) By instructing Kelley to submit false certifications for reimbursement of mileage she did not incur, by causing to be signed or signing each certification, and by instructing his administrative staff to facilitate the false certification, Defendant failed to ensure that a lawyer over which he had supervisory authority conformed to the Rules of Professional Conduct in violation of Rule 5.1(b).

3. In addition, Defendant's conviction in state court of the offense of willful failure to discharge duties constitutes misconduct and grounds for discipline in that such conviction is a criminal offense showing professional unfitness pursuant to N.C.G.S. §84-28 (b)(1) and N.C.A.C. 1B §.0115.

Based upon the pleadings and the admissions by consent of the parties, the hearing panel also finds by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant fully cooperated with the SBI investigation of this matter and freely admitted his conduct to the SBI, to the lawyers who prosecuted the criminal case, to the court in the criminal case, to the Grievance Committee and to the Disciplinary Hearing Commission.

2. The court in the criminal action against Defendant imposed the following sentence: 45 days incarceration, suspended; 12 months supervised probation until such

time as all monetary conditions are met, then transfer to unsupervised probation; fine of \$5,000.00 and court costs of \$354.50; and suspension of Defendant's law license for six months. In suspending Defendant's law license for six months, the court specifically stated that the suspension should not be interpreted as limiting or suggesting any specific outcome of any future independent State Bar proceedings.

3. Defendant complied immediately with the monetary requirements of the criminal judgment.

4. Defendant has dedicated over 20 years of service to the State of North Carolina as the District Attorney for the 13th prosecutorial district.

5. Until recently, Defendant stated that he believed he had the authority to enter such an arrangement by virtue of his position as a constitutionally designated elected official. However, Defendant now acknowledges that while he had statutory authority over salaries and duty stations of the employees of his office, he did not have the authority to approve travel reimbursement for mileage that was not actually incurred by the employees.

6. Defendant has expressed sincere remorse and contrition.

7. With the exception of the professional misconduct at issue in this case, Defendant has demonstrated good character in his professional life.

8. The misconduct at issue appears to be uncharacteristic of Defendant.

9. Defendant has no prior discipline.

10. Defendant has not engaged in the practice of law since he was sentenced by the court on August 19, 2013.

11. Defendant's misconduct received public attention, causing significant harm by bringing the legal profession into disrepute and significantly undermining the public's confidence in the integrity of the justice system. As a prosecutor, Defendant was a representative of the justice system and it was incumbent upon him to adhere to the highest standards. At the time Defendant committed the misconduct described herein, Defendant knew or reasonably should have known that his actions could cause significant harm to the profession and the administration of justice in the eyes of the public. As an elected official, Defendant was aware that his actions would play out in the public eye and that he had a duty to ensure that his acts met the highest ethical standards.

12. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel also enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. The hearing panel has also considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and determines that the following factors are applicable in this matter:

- (a) Defendant's intent to commit acts where the harm or potential harm was foreseeable;
- (b) The circumstances reflecting Defendant's lack of trustworthiness and integrity;
- (c) The negative impact of Defendant's actions on the public's perception of the profession; and
- (d) Acts of dishonesty, misrepresentation, deceit or fabrication.

2. The hearing panel has considered the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and determines that although some factors are present the circumstances of this case do not warrant disbarment in order to protect the public.

3. The hearing panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and determines that the following factors are applicable in this matter:

- (a) Defendant's lack of prior disciplinary offenses;
- (b) Defendant's pattern of misconduct;
- (c) That Defendant committed multiple offenses;
- (d) Defendant's full and free disclosure and cooperative attitude toward the proceedings;
- (e) Defendant's remorse;
- (f) Other than the conduct at issue in this proceeding, Defendant has demonstrated good character and judgment in his professional career;
- (g) Defendant's years of experience in the practice of law; and

(h) Imposition of other penalties or sanctions.

4. The hearing panel has carefully considered all of the different forms of discipline available to it. An admonition, reprimand, or censure would not be sufficient discipline because of the gravity of the potential harm Defendant's conduct caused to the public, to the administration of justice, and to the public's confidence in the justice system and the legal profession.

5. The panel determines that discipline short of suspension would not adequately protect the public, the legal profession or the administration of justice for the following reasons:

- (a) The factors under Rule .0114(w)(1) that are established by the evidence in this case are of a nature that support imposition of a suspension as the appropriate discipline; and
- (b) Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to attorneys and to the public regarding the conduct expected of members of the Bar of this state.

6. Because Defendant has not engaged in the practice of law since August 2013 and is currently suspended, it is unnecessary for him to comply with the wind-down provisions of 27 N.C.A.C. 1B § .0124 of the North Carolina State Bar Discipline & Disability Rules.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings and Conclusions Regarding Discipline, the hearing panel enters the following

ORDER OF DISCIPLINE

1. Defendant, George Rexford Gore, is hereby SUSPENDED from the practice of law for four years effective immediately upon the filing of this Order of Discipline.

2. Defendant shall receive credit toward satisfaction of the four year suspension for the time since his law license was suspended by the court on August 19, 2013.

3. Defendant shall surrender his law license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following filing of this Order.

4. Defendant shall pay the administrative fees and costs of this proceeding within 30 days of service of the statement of costs upon him by the Secretary of the State Bar.

5. After the completion of two years of active suspension of his law license, which shall be deemed to have begun as of August 19, 2013, Defendant may apply for a stay of the remainder of the suspension upon filing of a petition with the secretary at least thirty days before any proposed effective date of the stay and demonstrating by clear, cogent and convincing evidence the following:

- (a) Defendant has complied with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B § .0125 of the North Carolina State Bar Discipline & Disability Rules;
- (b) Defendant has kept the North Carolina State Bar Membership Department advised of his current business and home addresses (not P.O. box) and notified the State Bar of any change in address within ten days of such change;
- (c) Defendant has responded to all communications from the State Bar within thirty days of receipt or by the deadline stated in the communication, whichever is sooner;
- (d) That at the time of his petition for stay, 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 him, and including all judicial district dues, fees and assessments;
- (e) That at the time of his petition for stay, there is no deficit in Defendant's completion of mandatory Continuing Legal Education (CLE) hours, in reporting such hours or in payment of any fees associated with attendance at CLE programs;
- (f) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or any state or local government during his suspension; and
- (g) Defendant has paid the costs and administrative fees of this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar within thirty days of receipt of the statement of costs.

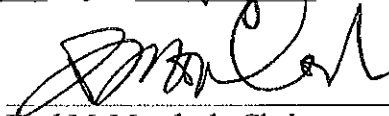
6. If Defendant successfully seeks a stay of suspension of his law license, such stay will continue in force only as long as Defendant complies and continues to comply with the following conditions:



- (a) Defendant shall timely pay all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges that the State Bar is authorized to collect from him, including all judicial district dues, fees and assessments;
- (b) Defendant shall timely complete all mandatory CLE hours, report such hours, and pay any fees associated with attendance at CLE programs;
- (c) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
- (d) Defendant shall keep the State Bar Membership Department advised of his current business and home addresses. Defendant shall notify the State Bar of any change in address within ten days of such change. His current business address must be a street address, not a P.O. box or drawer; and
- (e) Defendant shall comply with such other and further requirements as may be imposed by any hearing panel that may grant a stay of Defendant's suspension.

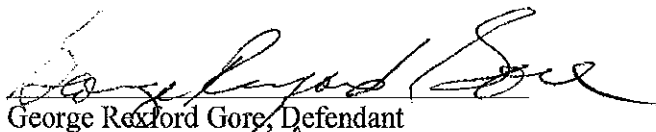
7. If Defendant does not seek or fails to obtain a stay of the active portion of the suspension, or if some part of the suspension is stayed and thereafter the stay is lifted/revoked, Defendant must comply with the requirements of paragraphs 5(a) through (g) above before being reinstated to the practice of law.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Panel, this 12th day of May, 2014.

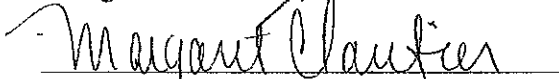


Fred M. Morelock, Chair
Disciplinary Hearing Panel

Consented to:



George Rexford Gore, Defendant



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff