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WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
03 BCR 2

IN RE REINSTATEMENT PETITION OF))	REPORT OF THE HEARING COMMITTEE
)	RECOMMENDING THAT PETITIONER'S
RANDY MEARES))	REINSTATEMENT BE DENIED

On November 7, 2003, a hearing committee of the Disciplinary Hearing Commission composed of Carlyn G. Poole, Chair; Karen E. Eady-Williams and Betty Ann Knudsen heard the above-referenced matter pursuant to 27 NCAC 1B, §.0125(a). Randy Meares represented himself and A. Root Edmonson represented the North Carolina State Bar. Pursuant to 27 NCAC 1B, §.0125(a)(3), the petitioner had the burden of proving that he had satisfied all of the elements qualifying him for reinstatement by clear, cogent and convincing evidence. Prior to the hearing, the parties filed memoranda that limited the contested issues to five issues:

- 1) whether Meares has reformed and presently possesses the moral qualifications to practice law in this state **taking into account the gravity of misconduct which resulted in the order of disbarment** [emphasis added];
- 2) whether reinstatement would be detrimental to the integrity and standing of the Bar, the administration of justice or the public interest;
- 3) whether Meares engaged in the unauthorized practice of law during his disbarment;
- 4) whether Meares understands the Revised Rules of Professional Conduct; and
- 5) whether Meares has the competency and learning in the law required to practice law in this state.

Based upon the evidence presented, the hearing committee enters the following:

Findings of Fact

1. In an order of discipline filed on January 8, 1998 in 97 DHC 24 that resulted in disbarment, a hearing committee of the Disciplinary Hearing Commission found that Randy Meares (hereinafter, Meares) misappropriated clients' funds, made false statements to the State Bar's investigator, intentionally withheld copies of relevant checks in response to a State Bar subpoena, and failed to disclose the State Bar's investigation to the Real Estate Commission when he applied for a real estate salesman's license in response to a question on his application that called for disclosure.

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2. On April 17, 1997, during the State Bar's investigation, Meares consented to the entry of a Preliminary Injunction in Wake County Superior Court that enjoined Meares from accepting any funds from clients or third parties in a fiduciary capacity and from withdrawing funds from any account in which client or fiduciary funds had been deposited. On August 3, 1998, Meares admitted that he had violated the Court's injunction on four occasions, and was given a probationary sentence for four counts of criminal contempt.

3. On April 23, 1998, Meares filed a bankruptcy petition. Meares failed to list on his schedule of assets a fee that he knew he had a potential claim to in a worker's compensation case. In April 1999, the bankruptcy trustee recovered \$10,000 as Meares' share of the unscheduled fee for distribution to Meares' creditors. Meares' failure to list the potential fee as a potential asset in the bankruptcy petition showed a lack of candor in the bankruptcy proceeding.

4. On November 20, 2001, Meares was called as a witness in a hearing before a deputy commissioner of the Industrial Commission in a worker's compensation case. On cross-examination, Meares was asked if he was disbarred for stealing from clients. Meares answered that he was not disbarred for stealing from clients. He also denied that he was disbarred for lying to the State Bar. He admitted only that he was disbarred. Meares' testimony in the 2001 hearing was evasive, and he was not candid about his testimony in that case at this hearing.

5. On April 22, 2003, Meares wrote a letter on behalf of Geraldine Moseley and her husband concerning their account at MBNA. In the computer-generated letterhead, Meares was identified as "Randy Meares, Esq." Typed above his signature on the letter was "LAW OFFICE OF RANDY MEARES."

6. Meares presented testimony from three lawyers at the firm where he began working as a paralegal in August 1998. Meares also offered testimony from two other lawyers and two lay witnesses, including his wife. They all testified that, in their opinion, Meares had satisfied each of the elements at issue and that he should be reinstated. However, the basis that the witnesses gave for their conclusion was not convincing given the gravity of Meares' misconduct.

7. None of the lawyers who testified for Meares was aware of the April 22, 2003 letter that Meares wrote to representatives of MBNA on behalf of the Moseleys. The associate from the firm that Meares works for was not asked about the letter. However, the other four lawyers who testified for Meares considered that Meares had engaged in the unauthorized practice of law by sending the letter. Meares' explanation concerning the letter was that he was only trying to help the Moseleys because a lawyer that he recommended to them had failed to clear the matter up. That was not justification for engaging in the unauthorized practice of law.

8. Meares' evasiveness and lack of candor during his testimony before the hearing committee shows that Meares lacks remorse.

9. Meares failed to demonstrate that he had engaged in activities that would exhibit to the public that he had the present moral character to be reinstated to the practice of law such that the public would have confidence that his reinstatement would not be detrimental to the integrity and standing of the bar, to the administration of justice, and to the public interest.

10. By reading advance sheets, issues of Lawyers Weekly, performing his job as a paralegal with the law firm, and attending seminars, Meares has demonstrated his understanding of the Rules of Professional Conduct and his competency and learning in the law, however, his actions and lack of candor following his disbarment indicate Meares lacks a true appreciation of the Rules of Professional Conduct.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. Meares has not reformed and does not possess the moral qualifications required for admission to practice law in this state taking into account the gravity of the misconduct that resulted in his order of discipline. Meares has failed to satisfy a necessary element required by 27 NCAC 1B, §.0125(a)(3)(C), and is ineligible to be reinstated to the practice of law.

2. Permitting Meares to resume the practice of law within the state would be detrimental to the integrity and standing of the bar, to the administration of justice, and to the public interest taking into account the gravity of the misconduct that resulted in his order of discipline. Meares has failed to satisfy a necessary element required by 27 NCAC 1B, §.0125(a)(3)(D), and is ineligible to be reinstated to the practice of law.

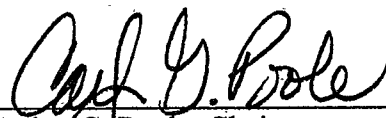
3. During the period of disbarment, Meares engaged in the unauthorized practice of law. Meares has failed to satisfy a necessary element required by 27 NCAC 1B, §.0125(a)(3)(I), and is ineligible to be reinstated to the practice of law.

4. Meares understands the current Rules of Professional Conduct as required by 27 NCAC 1B, §.0125(a)(3)(K).

5. Meares has the competency and learning in the law required to practice law in this state as required by 27 NCAC 1B, §.0125(a)(4)(A).

BASED UPON the foregoing Findings of Fact and Conclusions of Law, **the hearing committee recommends to the Council of the North Carolina State Bar that the law license of Randy Meares not be reinstated at this time.**

Signed by the Chair with the consent of the other members of the hearing committee this 26 day of November, 2003.



Carlyn G. Poole, Chair
Hearing Committee