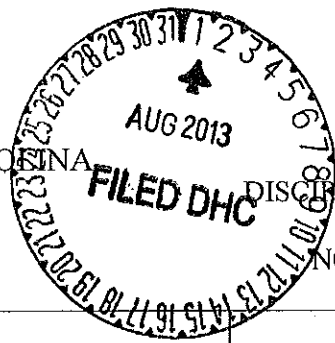


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
12 DHC 41

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ASHLEY CANNON, Attorney,

Defendant

CONSENT ORDER OF
DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Steven D. Michael, Chair, Renny W. Deese, and Percy L. Taylor. Leonor Bailey Hodge represented Plaintiff, the North Carolina State Bar. Defendant, Ashley Cannon, was represented by David Freedman. Defendant waives a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. Defendant knowingly, freely and voluntarily waives her right to appeal this consent order or to challenge in any way the sufficiency of the findings by consenting to this order.

Based upon the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereafter "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 promulgated thereunder.

2. Defendant, Ashley E. Cannon (hereafter "Defendant" or "Cannon"), was admitted to the State Bar on 24 August 2001 and is an Attorney at Law subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the relevant period referred to herein, Cannon was actively engaged in the practice of law in Winston-Salem, Forsyth County, North Carolina.

4. From February 2008 through January 2010 Cannon was dating J.F. and they had an intimate relationship.

5. In January 2010, the nature of Cannon and J.F.'s relationship changed. Although they kept in contact with one another, they only saw one another occasionally through April 2010.

6. On or about 26 July 2010, Cannon filed a complaint and motion for domestic violence protective order ("DVPO Complaint") against J.F. in Mecklenburg County District Court.

7. The following statements were included among the allegations that Cannon made against J.F. in the DVPO Complaint:

- a. "On 23 July 2010 [J.F.] began calling my cell phone leaving messages and threats to come to my home."
- b. "[J.F.] called me at least 20 times and text[ed] me at least 30 times."
- c. "[J.F.] came to my home, he was banging at my door and when I did not answer he went to the neighbors (sic) door and was banging on her door."
- d. "[J.F.] was screaming my name and I was hiding in the bathroom."
- e. "I had tried to leave before he got there, he had warned me he was coming but I did not get out fast enough."
- f. "[J.F.] won't leave me alone."
- g. "I broke up with the [J.F.] in January 2010 and his behavior has escalated."
- h. "[J.F.] was physically abusive and hit me in face (sic) with his fist."
- i. "I am afraid and I need protection from him."
- j. "I believe there is danger of serious and immediate injury to me or my children."

8. The DVPO Complaint was not an accurate depiction of the events that preceded the filing of the DVPO Complaint.

9. Cannon alleged that she was hiding in the bathroom when J.F. came to her home and that she had tried to leave before he arrived.

10. In fact, Cannon was showering when J.F. came into her home and when she heard J.F. she stayed in the bathroom until he left. Due to Cannon's lack of candor, the court mistakenly concluded that Cannon sought refuge in the bathroom when she heard J.F. enter her home.

11. Cannon claimed that she "broke up" with J.F. in January 2010.

12. Cannon's failure to provide a more candid recitation of the facts in the DVPO Complaint caused the court to mistakenly conclude that Cannon did not contact J.F. after she and J.F. ended their dating relationship.

13. Cannon alleged that J.F. would not leave her alone, that he called and texted her repeatedly, that she was afraid of J.F., that he was physically abusive, and that he hit her in the face with his fist.

14. In the context of the DVPO Complaint, Cannon's allegation that J.F. was physically abusive and that he hit her in the face gave the false impression that J.F. was physically abusive during the time period immediately leading up to Cannon filing the DVPO Complaint.

15. Cannon's failure to provide a more candid recitation of the facts caused the court to mistakenly conclude that Cannon had been in fear of J.F. since Cannon and J.F. ended their dating relationship.

16. Based upon the allegations set forth in Cannon's DVPO Complaint, the Honorable Christy T. Mann granted an Ex Parte Domestic Violence Order of Protection against J.F.

17. The statements contained in the DVPO Complaint were written by the complaint intake worker based upon the information Cannon provided in response to the worker's questions. Nonetheless, as an officer of the court who was familiar with the legal system, Cannon should have recognized that the DVPO Complaint was not a candid statement of the events that preceded the filing of the DVPO Complaint.

18. On 8 and 9 September 2010, 8 October 2010 and 19 October 2010, Judge Mann heard evidence relating to Cannon's DVPO Complaint.

19. During her direct examination at the hearing, Cannon presented a biased version of the events that led up to the DVPO Complaint. Although Cannon demonstrated a lack of candor during her direct examination testimony, Cannon did not falsify her testimony in response to questions during cross-examination.

20. The hearing on Cannon's DVPO Complaint lasted four days, much longer than the one hour typically allocated and required for cases of this type.

21. If Cannon had been more candid during her direct examination testimony, the hearing on her DVPO Complaint would not have required four days.

22. At the conclusion of the evidence, the court dismissed Cannon's DVPO Complaint.

Based upon the consent of the parties and the foregoing Findings of Fact, 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, Ashley Cannon.
2. Defendant's conduct as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:
 - a. By failing to provide in the DVPO Complaint a more candid statement of the facts, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
 - b. By failing to provide a more candid statement of the facts during her direct examination testimony at the hearing on her DVPO Complaint, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. It cost J.F. several thousand dollars in legal fees to defend against the DVPO Complaint. This cost could have been avoided if Cannon had been more candid.
2. The public was aware of the DVPO Complaint and the related order of dismissal. Cannon's conduct in obtaining the DVPO Complaint and her conduct at the hearing on the complaint had a negative impact on the public's perception of the profession.
3. Cannon is remorseful about her lack of candor and the effect it had on the administration of justice.
4. Cannon has no prior discipline.
5. Cannon was dating her boss, a married man, when she obtained the DVPO Complaint and at the time of the hearing. Her boss and his law partner advised Cannon to file the DVPO Complaint against J.F.
6. Cannon was being sued by J.F.'s wife for alienation of affection when she obtained the DVPO Complaint and at the time of the hearing.

7. Cannon was being treated and taking medication for depression when she obtained the DVPO Complaint and at the time of the hearing on the complaint.

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

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C.A.C. 1B § .0114(w)(1), the Rules and Regulations of the State Bar, and concludes that the following factors that warrant suspension or disbarment are present:

- a. Negative impact on public's perception of the profession;
- b. Negative impact of Defendant's actions on the administration of justice.

2. The Hearing Panel has considered all of the factors contained in 27 N.C.A.C. 1B § .0114(w)(2), the Rules and Regulations of the State Bar, and concludes that no factors that warrant disbarment are present.

3. The Hearing Panel has considered all of the factors 27 N.C.A.C. 1B § .0114(w)(3), the Rules and Regulations of the State Bar, and concludes that the following are applicable in this matter:

- a. no prior disciplinary offenses;
- b. effect of personal and emotional problems on the conduct in question;
- c. remorse; and
- d. nine years of experience in the practice of law.

4. The Hearing Panel has considered all lesser sanctions including: censure, reprimand and admonition, and finds that discipline less than suspension would not adequately protect the public from Defendant's future misconduct because: (i) Defendant's conduct caused significant harm to the administration of justice by diverting court resources away from hearing legitimate legal disputes to hold the hearing on her DVPO Complaint; and (ii) lesser discipline would fail to acknowledge the seriousness of the violations committed by Defendant and would send the wrong message to attorneys regarding the conduct expected of members of the Bar of this state.

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

ORDER OF DISCIPLINE

1. Defendant, Ashley E. Cannon, is hereby suspended from the practice of law for two years, effective 30 days from service of this order on Cannon.

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

3. The two year suspension is stayed for a period of two years as long as Cannon complies with the following conditions:

- a. Cannon pays the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within thirty days of service of the statement of fees and costs upon her;
- b. Cannon shall obtain therapeutic counseling for her depression, and any other psychological issue or condition with which she may suffer, from a licensed psychologist or psychiatrist approved by the Office of Counsel of the State Bar. Cannon shall meet at least monthly with the mental health provider, or more frequently if so directed by the mental health provider. Cannon shall submit the name and credentials of the proposed medical provider to the Office of Counsel for approval within fifteen days of being served with this order. The Office of Counsel shall not unreasonably withhold its approval of the proposed medical provider. Cannon shall be solely responsible for all costs associated with this counseling;
- c. Cannon shall comply with all treatment recommendations and any treatment plan(s) made by any medical provider who treats her for depression or any other psychological issue or condition;
- d. Cannon shall direct all medical providers (including the medical provider referenced in paragraph b above) who treat her for depression or any other psychological issue or condition to provide to the Office of Counsel monthly reports describing in detail Cannon's current treatment regimen, compliance with treatment recommendations, and prognosis and treatment plan for the next month. The first such report shall be submitted to the Office of Counsel thirty days from the date of service of this Consent Order of Discipline. Cannon's medical providers shall submit subsequent reports on the first day of each month thereafter. Cannon shall be solely responsible for all costs associated with her treatment and for all costs associated with the preparation and sending of monthly reports to the Office of Counsel;

- e. Cannon shall refrain from excessive use of alcohol (Cannon's non-compliance with this condition may be established through lay witness or medical provider testimony, and/or test results showing a blood alcohol content above the legally authorized limit for driving, currently .08%);
- f. Cannon shall provide the Office of Counsel with releases authorizing and instructing all medical providers who treat her for depression or any other psychological issue or condition to provide the Office of Counsel with all medical records relating to her evaluation, prognosis, care or treatment, including psychological and mental health evaluations; and these releases shall also authorize and instruct such medical providers to submit to interviews by the Office of Counsel;
- g. Cannon shall keep the State Bar Membership Department advised of her current business and home addresses. Cannon shall notify the State Bar of any change of address within ten days of such change. Her current business address must be a street address, not a post office box or drawer;
- h. Cannon shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of such communication or by the deadline stated in the communication, whichever is sooner;
- i. Cannon shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which she receives notice after the effective date of this order;
- j. Cannon shall timely comply with all State Bar Membership and Continuing Legal Education (CLE) requirements; and
- k. Cannon shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government.

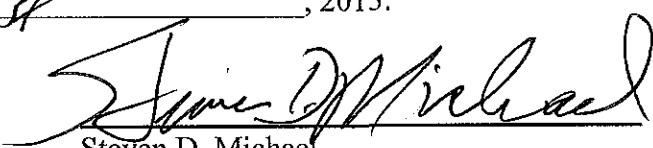
4. If Cannon fails to comply with any one or more of the conditions set out above in this Consent Order of Discipline, then the stay of the suspension may be lifted in accordance with 27 N.C.A.C. 1B § .0114(x).

5. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Cannon's license at the end of the period of active suspension. Additionally, Cannon must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:


- a. Cannon submitted her law license and membership card to the Secretary of the State Bar within thirty days of the date the order lifting the stay and/or activating the suspension of her law license;
- b. Cannon complied with all provisions of 27 N.C.A.C. 1B § .0124 of the State Bar Discipline and Disability Rules following entry of the order lifting the stay and/or activating the suspension of her law license;
- c. Cannon timely paid all administrative fees and costs assessed against her in this proceeding as reflected on the statement of costs served upon her by the Secretary of the State Bar;
- d. At the time of her petition for reinstatement, Cannon is not suffering from any condition or disability that would impair her ability to practice law;
- e. Cannon has kept the State Bar Membership Department advised of her current business and home street addresses (not post office box or drawer addresses) and notified the State Bar of any change in address within ten days of such change;
- f. Cannon has responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner;
- g. At the time of her petition for reinstatement, Cannon 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 her, including all judicial district dues and assessments;
- h. At the time of her petition for reinstatement, there is no deficit in Cannon's completion of mandatory CLE hours, in reporting of such hours or in payment of any fees associated with attendance at CLE programs; and
- i. Cannon has not violated the Rules of Professional Conduct or the laws of the United States, or the laws of any state or local government during her suspension.

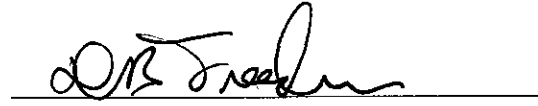
6. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) throughout the period of the stay of suspension.

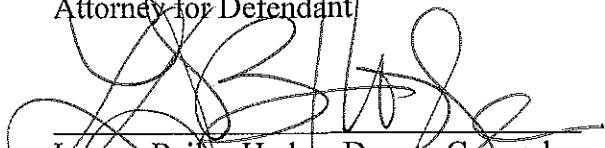
Signed by the Chair with the consent of the other Hearing Panel members this the
15th day of August, 2013.


Steven D. Michael
Chair, Disciplinary Hearing Panel

WE CONSENT:


Ashley Canyon
Defendant


David Freedman
Attorney for Defendant


Leonor Bailey Hodge, Deputy Counsel
Attorney for Plaintiff