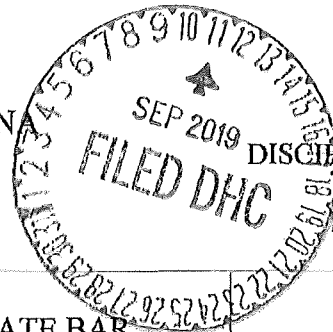


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
18 DHC 43

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

CLINTON F. MOORE, Attorney,
Defendant

ORDER OF DISCIPLINE

This matter was heard on August 16, 2019 before a hearing panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, Stephanie N. Davis, and Tyler B. Morris. G. Patrick Murphy represented Plaintiff, the North Carolina State Bar. F. Lane Williamson represented Defendant, Clinton F. Moore. Defendant was properly served with process and the matter came before the Hearing Panel with due notice to all parties.

Prior to the hearing, judgment on the pleadings was granted in favor of Plaintiff concluding that the material facts alleged in the Complaint establish that Defendant violated the Rules of Professional Conduct contained in the Complaint. The hearing proceeded to determine the appropriate discipline for the rule violations as established.

Based on the foregoing, the record proper in this matter, the testimony and evidence presented at the hearing, the argument and contentions of the parties, and upon making credibility determinations regarding testimony presented, 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, Clinton F. Moore (hereafter "Defendant" or "Moore"), was admitted to the North Carolina State Bar on August 28, 2009 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, Defendant was actively engaged in the practice of law in Charlotte, Mecklenburg County, North Carolina.

R. HAYDEN CASE

4. R. Hayden ("Hayden") initiated a post-conviction motion for appropriate relief ("MAR") in Mecklenburg County criminal case files 13 CRS 236018 and 13 CRS 236023 on June 24, 2014 with a *pro se* filing.

5. The Public Defender's Office was initially assigned to represent Hayden in the MAR.

6. Defendant was later retained and paid \$5,000 to represent Hayden in the MAR.

7. Family and friends of Hayden obtained the money to pay Defendant's fee by organizing a fish-fry fundraiser.

8. After he was retained, Defendant told Hayden that Defendant needed to amend the MAR and that he would do so and submit the amended MAR to the court.

9. Defendant did not amend the MAR or submit any amended MAR to the court.

10. In September 2014, Defendant appeared at a hearing in Mecklenburg County Superior Court related to the MAR on Hayden's behalf.

11. At the September 2014 hearing, the Public Defender who had been appointed to represent Hayden withdrew and Defendant's request to continue the case was granted.

12. Additional requests by Defendant to continue the MAR hearing were granted, and the MAR was ultimately scheduled for hearing on January 23, 2015.

13. On or about January 21, 2015, Assistant District Attorney Brett Few ("Few"), who was handling the MAR for the State of North Carolina, contacted Defendant to determine if Defendant was ready to go forward with the January 23, 2015 MAR hearing.

14. During the January 21, 2015 communications with Few, Defendant advised Few that Hayden had decided to withdraw the MAR.

15. Defendant did not inform Hayden that he was going to withdraw the MAR prior to communicating with Few.

16. Hayden did not give Defendant authority to withdraw the MAR.

17. Defendant did not inform Hayden that he had withdrawn the MAR and continued to lead Hayden to believe that the MAR was moving forward.

18. Hayden asked Defendant to provide him with copies of all documents filed on Hayden's behalf, but Defendant never provided any documents to Hayden and did not respond to Hayden's request.

19. In or about July and August 2016, Defendant advised Hayden's wife, K. Hayden, that Defendant had arranged for Hayden's early release from prison.

20. Defendant sent K. Hayden a screen shot purportedly from Hayden's Department of Correction ("DOC") information page showing that Hayden's release date had been moved up.

21. K. Hayden called DOC's combined records section to verify Defendant's information and was told that Hayden's release date had not been changed.

22. Hayden contacted his case worker with DOC about the purported early release date and was told that the case worker was unaware of any change in Hayden's release date.

23. Defendant's statement to K. Hayden that Defendant had arranged an early release date for Hayden was false and deceptive.

24. When K. Hayden contacted Defendant about the false information concerning Hayden's purported early release date, Defendant told her that she had upset the arrangement he had in motion by calling the DOC.

25. In Spring 2017, Defendant stopped communicating with Hayden.

26. On or about November 16, 2017, Defendant was served with a notice of fee dispute, 17FD0545, that Hayden filed with the State Bar Fee Dispute Resolution Program ("FDRP") concerning Defendant's handling of Hayden's MAR.

27. On or about January 29, 2018, Defendant submitted a statement to the FDRP in an email.

28. In his statement to the FDRP, Defendant represented that he had maintained communication with Few to assist in a reduction of Hayden's sentence and/or his immediate release.

29. Defendant's statement to the FDRP about maintaining communication with Few to obtain a reduction of Hayden's sentence and/or his immediate release was false.

30. After Hayden filed the fee dispute, Defendant met with Hayden in prison and told Hayden that he would get the MAR moving again.

31. Defendant told Hayden that he was presenting a proposal to the new assistant district attorney assigned to Hayden's case that would reduce Hayden's sentence.

32. In or about April and May 2018, Defendant met with Hayden in prison and told Hayden that Defendant had been working on a proposed consent agreement with the district attorney to get Hayden released and the paperwork was on the judge's desk at that time.

33. Defendant's statements to Hayden about working on a consent agreement with the district attorney to get Hayden released were false and deceptive.

34. On March 19, 2018, Defendant was served with a letter of notice inquiring about his conduct in Hayden's case in State Bar grievance file 18G0155. Defendant failed to respond to the grievance within the time provided by 27 NCAC 1B .0112(c)

O. & M. DALTON CASE

35. In January 2008, O. Dalton and M. Dalton, husband and wife, signed a promissory note as personal guarantors on a Small Business Administration ("SBA") loan to their son, J. Dalton.

36. The SBA note for the loan was secured by a deed of trust on Mr. and Mrs. Dalton's home.

37. Comerica Bank ("Comerica") was the holder of the SBA note and the beneficiary of the deed of trust securing the SBA loan.

38. J. Dalton later defaulted on the SBA loan.

39. In or about September 2015, Mr. and Mrs. Dalton were notified by Comerica that payments due on the SBA loan were delinquent and Comerica was giving notice of the balance due on the SBA loan in exercise of its power of sale.

40. The unpaid principal and interest due on the SBA loan at the time of Comerica's notice was approximately \$416,400.00.

41. In or about September 2015, Mr. and Mrs. Dalton hired Defendant to represent them regarding the foreclosure proceedings.

42. Mr. and Mrs. Dalton paid Defendant \$2,000.00 in legal fees for representation in the foreclosure proceedings.

43. Defendant told Mr. and Mrs. Dalton that he would negotiate a global settlement that would resolve claims by all parties involved in collection proceedings arising from the SBA loan: Conserve, a debt collector, Comerica and their banking partners, and the SBA.

44. In addition to legal fees and at Defendant's request, Mr. and Mrs. Dalton delivered to Defendant \$14,100.00 that Defendant told Mr. and Mrs. Dalton was "good faith money" to be delivered to the attorney for Comerica to go toward the SBA loan.

45. Mr. and Mrs. Dalton provided the following payments to Defendant based on Defendant's request for "good faith money" to be delivered to the attorney for Comerica to go toward the SBA loan:

Date	Amount	Reason
October 16, 2015	\$3,000	Good faith money for Comerica attorney to go towards loan.

May 17, 2016	\$1,800	Good faith money for Comerica attorney to go toward loan.
August 5, 2016	\$3,100	Good faith money for Comerica attorney to go toward loan.
January 17, 2017	\$3,200	Good faith money for Comerica attorney to go toward loan.
February 17, 2017	\$3,000	Good faith money for Comerica attorney to go toward loan.

46. Defendant did not pay the \$14,100.00 to the attorney for Comerica to be applied to the SBA loan.

47. Defendant was not entitled to the \$14,100.00 from Mr. and Mrs. Dalton.

48. Defendant used the \$14,100.00 for a purpose other than the reason for which he received the money.

49. On or about February 8, 2017, Comerica agreed to release its deed of trust in exchange for the payment of \$68,000.00.

50. Mr. and Mrs. Dalton used a home equity loan to fund their payment to Comerica.

51. On or about February 22, 2017, Mr. and Mrs. Dalton paid \$68,000.00 directly to Comerica who filed a satisfaction of the deed of trust on April 6, 2017.

52. Defendant's representations to Mr. and Mrs. Dalton that he needed installments of "good faith money" to be paid to Comerica's lawyer to go toward the loan were false and deceptive.

53. The only money delivered to Comerica or the lawyer representing Comerica was the \$68,000.00 paid to cancel the deed of trust.

54. Defendant obtained the "good faith money" in the amount of \$14,100.00 by false pretenses.

55. Defendant was aware that Mr. and Mrs. Dalton were paying \$68,000.00 to Comerica for Comerica to cancel the deed of trust and was aware that, as personal guarantors of the SBA loan, Mr. and Mrs. Dalton remained liable for the deficiency.

56. Defendant failed to fully advise Mr. and Mrs. Dalton concerning the agreement with Comerica, including failing to advise them that they would remain liable for the deficiency.

57. In or about late 2016, the Department of the Treasury ("DOT") began garnishing Mr. Dalton's social security benefits based on the SBA loan default.

58. On or about January 3, 2017, Mr. and Mrs. Dalton paid Defendant \$5,500.00 to represent them in resolving the garnishment of Mr. Dalton's social security benefits.

59. Defendant did not take any material action to stop the garnishment.

60. O. Dalton requested that Defendant provide invoices and/or an accounting for money paid to Defendant.

61. Defendant did not provide invoices for, or an accounting of, money paid to Defendant in response to O. Dalton's request.

62. O. Dalton requested that Defendant provide to O. Dalton a copy of the file related to Defendant's representation of Mr. and Mrs. Dalton.

63. Defendant failed to promptly respond to O. Dalton's requests for a copy of the file related to Defendant's representation of Mr. and Mrs. Dalton.

64. O. Dalton's requests for information about Mr. and Mrs. Dalton's case were not answered by Defendant.

65. On or about March 21, 2018, Defendant was served with a letter of notice in State Bar grievance file 18G0170 related to Defendant's representation of Mr. and Mrs. Dalton in the SBA loan default, and the garnishment proceedings by the DOT.

66. The letter of notice, in addition to requiring a response to the deficiencies of his representation noted therein, directed Defendant to produce his entire file related to his representation of Mr. and Mrs. Dalton.

67. Defendant failed to respond the letter of notice in grievance file 18G0170 within the time provided by 27 NCAC 1B .0112(c).

J. DALTON CASE

68. J. Dalton, the son of Mr. and Mrs. Dalton as identified in paragraph 35 above, retained Defendant in or about February 2017 to represent him in collection proceedings resulting from J. Dalton's default on an SBA loan.

69. J. Dalton told Defendant that the DOT had seized a tax refund check of J. Dalton.

70. J. Dalton delivered \$8,700.00 to Defendant to be paid toward settlement of his debt to Comerica for his default of the SBA loan.

71. Defendant failed to apply the \$8,700.00 toward settlement of J. Dalton's debt to Comerica for his default of the SBA loan.

72. Defendant was not entitled to the \$8,700.00 he received from J. Dalton's money.

73. Defendant used the \$8,700.00 he obtained from J. Dalton for a purpose other than the reason for which he received the money.

74. Defendant told J. Dalton that he would get the seized tax refund back and it would cover the bulk of the settlement.

75. Defendant told J. Dalton that the SBA loan default collection proceedings would be resolved quickly.

76. Defendant did not resolve the SBA loan default collection proceedings and the DOT started to garnish J. Dalton's wages.

77. Defendant told J. Dalton that Defendant would file for a stay of the garnishment, but the stay required a \$5,000.00 bond.

78. On or about June 19, 2017, J. Dalton delivered \$5,000.00 to Defendant to obtain a bond to stay the garnishment of J. Dalton's wages.

79. In a memorandum dated June 19, 2017, Defendant represented to J. Dalton that he anticipated the \$5,000.00 paid for the bond would be returned to J. Dalton on or before June 29, 2017.

80. Defendant did not use the \$5,000.00 that he obtained from J. Dalton to obtain a stay of the garnishment of J. Dalton's wages.

81. Defendant never returned the \$5,000.00 to J. Dalton.

82. Defendant was not entitled to the \$5,000.00 from J. Dalton.

83. Defendant used the \$5,000.00 that he obtained from J. Dalton for a purpose other than for which he received it.

84. J. Dalton asked Defendant to provide him with receipts to document that the \$5,000.00 was used to obtain a bond to stay the garnishment.

85. Defendant failed to produce any receipts to document that a bond had been obtained to stay the garnishment of J. Dalton's wages.

86. Defendant's statement that the \$5,000.00 J. Dalton delivered to him would be used to obtain a bond to stay the garnishment was false and deceptive.

87. On or about August 18, 2017, J. Dalton asked Defendant to produce and provide to J. Dalton his entire case file, and a copy of the settlement agreement that showed that all parties had settled and there were no outstanding debts.

88. Defendant failed to promptly produce and provide to J. Dalton his entire case file despite several requests to do so.

89. On or about March 21, 2018, Defendant was served with a letter of notice in State Bar grievance file 18G0171 related to his conduct in J. Dalton's case.

90. The letter of notice, in addition to requiring a response to the deficiencies of his representation noted therein, directed Defendant to produce his entire file related to his representation of J. Dalton.

91. Defendant failed to respond to the letter of notice in grievance file 18G0171 within the time provided by 27 NCAC 1B .0112(c) and did not produce any documents from J. Dalton's file in response to the letter of notice.

D. BROWN CASE

92. On or about July 16, 2015, D. Brown ("Brown") was issued a speeding citation in Iredell County.

93. Brown did not appear in court when her speeding case was scheduled for hearing.

94. Brown later learned that she was unable to renew her North Carolina driver's license due to the outstanding citation.

95. On or about December 18, 2017, Brown paid Defendant \$200.00 to represent her in resolving the outstanding traffic citation in Iredell County.

96. Defendant told Brown that he would obtain a disposition of the outstanding traffic citation and would mail her the cost sheet to pay the costs.

97. In or about February 2018, Defendant told Brown that he had taken care of her case and he would send her documentation that she could take to the Department of Motor Vehicles ("DMV") to reinstate her driver's license.

98. Defendant had not resolved Brown's case and his statement that he had done so was false.

99. Defendant failed to perform the services he committed to provide and failed to send Brown any documents verifying the resolution of her outstanding traffic citation in Iredell County.

100. Defendant failed to respond to repeated calls and other communication attempts by Brown to obtain information about the status of her case and Defendant's failure to provide promised documentation.

101. Defendant ignored Brown's case and failed to provide any services for the legal fee that he was paid.

102. As of May 21, 2018, the records of the Iredell County Clerk of Superior Court showed that no attorney ever noticed an appearance on behalf of Brown, and the last entry in the file was on April 13, 2016.

103. On May 22, 2018, Defendant, through counsel, was served with a letter of notice in State Bar grievance file 18G0405 regarding his conduct in Brown's case.

104. Defendant failed to respond to the letter of notice in grievance file 18G0405 within the time provided by 27 NCAC 1B .0112(c)

Based upon 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, Clinton F. Moore, and over the subject matter.

2. Moore'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 obtaining a \$5,000 fee to represent Hayden in the prosecution of Hayden's MAR but failing to do any material work for the fee from mid-2014 through late 2017, Defendant failed to act with reasonable diligence in violation of Rule 1.3, and Defendant collected a clearly excessive fee in violation of Rule 1.5(a);
- (b) By withdrawing the MAR without consulting with Hayden and by failing to inform Hayden that Defendant had withdrawn Hayden's MAR, Defendant failed to reasonably consult with Hayden about the means by which his objectives were to be accomplished in violation of Rule 1.4(a)(2) and Rule 1.2(a), and intentionally prejudiced and/or damaged his client during the course of the professional relationship in violation of Rule 8.4(g);
- (c) By failing to produce and/or respond to Hayden's request for all documents filed on behalf of Hayden, Defendant violated Rule 1.4(a)(4);

- (d) By giving Hayden and his family false information about a purported early release date Defendant claimed that he had obtained for Hayden, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- (e) By representing to Hayden that Defendant was continuing to advance Hayden's MAR to a resolution including that Defendant was working on a consent agreement with the district attorney to secure Hayden's early or immediate release when Defendant had withdrawn Hayden's MAR, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- (f) By representing to the FDRP that Defendant was maintaining communication with the district attorney's office to obtain a reduction in Hayden's sentence and/or his immediate release, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c);
- (g) By failing to respond to the letter of notice in grievance file 18G0155, Defendant violated Rule 8.1(b);
- (h) By obtaining a \$5,500.00 fee to represent O. Dalton in a garnishment action against his social security benefits and failing to take any material action on O. Dalton's behalf, Defendant collected a clearly excessive fee in violation of Rule 1.5(a), and failed to act with reasonable diligence in violation of Rule 1.3;
- (i) By obtaining \$14,100.00 from Mr. and Mrs. Dalton by telling them the money was good faith money to be given to the lawyer representing Comerica to go toward the SBA loan but instead Defendant used the money for a purpose other than for which it was obtained, Defendant committed a criminal act, obtaining property by false pretenses, that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(c), and used entrusted property for his personal benefit in violation of Rule 1.15-2(j) and 1.15-2(k)¹;
- (j) By failing to comply with Mr. and Mrs. Dalton's request for documents from their file and an accounting for funds delivered to him, Defendant violated Rule 1.4(a)(4);

¹ Rule 1.15-2(j) was amended effective June 9, 2016 and is now codified as 1.15-2(k).

- (k) By failing to timely respond to the letter of notice in grievance file 18G0170, Defendant violated Rule 8.1(b);
- (l) By obtaining \$8,700.00 from J. Dalton by representing to him that the money would be paid on a settlement of J. Dalton's debt from the SBA loan but instead Defendant used the money for a purpose other than for which it was obtained, Defendant committed a criminal act, obtaining property by false pretenses, that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(c), and used entrusted property for his personal benefit in violation of Rule 1.15-2(k);
- (m) By obtaining \$5,000.00 from J. Dalton by telling him that the money would be used to obtain a bond to stay garnishment of J. Dalton's wages but instead Defendant used the money for a purpose other than for which he received it and failed to return the money to his client, Defendant committed a criminal act, obtaining property by false pretenses, that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(c), and used entrusted property for his personal benefit in violation of Rule 1.15-2(k);
- (n) By failing to take any material action to obtain a stay of the garnishment, Defendant violated Rule 1.3;
- (o) By failing to comply with J. Dalton's request for receipts to document how the \$5,000.00 was used, Defendant violated Rule 1.4(a)(4);
- (p) By failing to promptly produce and provide to J. Dalton his entire case file despite several requests to do so, Defendant violated Rule 1.4(a)(4);
- (q) By failing to timely respond to the letter of notice in grievance file 18G0171, Defendant violated Rule 8.1(b);
- (r) By obtaining \$200.00 from Brown and then failing to perform the legal service he committed to perform on her behalf, Defendant failed to act with reasonable diligence in violation of Rule 1.3, and collected a clearly excessive fee in violation of Rule 1.5(a);
- (s) By falsely telling Brown that he had taken care of her case and would mail documentation to her that she could take to DMV to

reinstate her driver's license, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation that reflects adversely on his fitness as a lawyer in violation of Rule 8.4(c);

- (t) By failing to comply with Brown's requests for information about the status of her case and to provide the documentation that Defendant stated he would send her, Defendant violated Rule 1.4(a)(4); and
- (u) By failing to respond to the letter of notice in grievance file 18G0405, Defendant violated Rule 8.1(b).

3. Moore's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(3) as follows:

- (a) By failing to respond to the State Bar's letter of notice in grievance file 18G0155 (R. Hayden), Defendant failed to answer a formal inquiry issued by the State Bar in a disciplinary matter;
- (b) By failing to respond to the State Bar's letter of notice in grievance file 18G0170 (Mr. and Mrs. Dalton), Defendant failed to answer a formal inquiry issued by the State Bar in a disciplinary matter;
- (c) By failing to respond to the State Bar's letter of notice in grievance file 18G0171 (J. Dalton), Defendant failed to answer a formal inquiry issued by the State Bar in a disciplinary matter; and
- (d) By failing to respond to the State Bar's letter of notice in grievance file 18G0405 (D. Brown), Defendant failed to answer a formal inquiry issued by the State Bar in a disciplinary matter.

Additional Findings of Fact Regarding Discipline

1. The findings of fact in paragraphs 1 – 104 above are incorporated as if fully set forth herein.

2. In his answer, Defendant made statements that misrepresented material facts in response to allegations of the complaint. For example, paragraph 15 of the complaint alleges that during a January 21, 2015 communication Defendant told Few, the prosecutor handling Hayden's MAR, that Hayden had decided to withdraw the MAR. Defendant denied that allegation; however, an email authored by Defendant directly contradicts his denial and states: "He is withdrawing the the (sic) MRA (sic). He called me yesterday and I'm presently preparing the pleadings."

3. Other misrepresentations of material facts in Defendant's answer include:

- a. Denied that he made a false statement to Hayden by telling him that he was working on a consent agreement with the district attorney to get Hayden released, paragraph 34; and

b. Claimed that the "good faith money" he obtained from Mr. and Mrs. Dalton was for attorney's fees, paragraph 46.

4. During the discovery stage of this case, Defendant failed to timely respond to Plaintiff's request for production of documents ("RPD").

5. Defendant later failed to respond to Plaintiff's motion to compel and failed to comply with an Order directing him to comply with Plaintiff's RPD.

6. Upon Defendant's failure to comply with the Order to compel, Plaintiff filed a motion for sanctions. Defendant failed to respond to the motion for sanctions.

7. Plaintiff filed a motion for judgment on the pleadings following the imposition of sanctions and again Defendant did not respond.

8. Defendant's failure to produce information in response to Plaintiff's discovery request, to comply with the Order to compel discovery, to respond to Plaintiff's motion for sanctions, and his failure to respond to Plaintiff's motion for judgment on the pleadings, demonstrates Defendant's bad faith approach to this disciplinary proceeding and the self-regulation process.

9. The legal profession is entrusted with the privilege of self-regulation. An attorney's refusal to participate in good faith in that self-regulation impairs the ability of the State Bar to carry out that self-regulation and poses a risk of significant harm to the profession, to clients, and to the public.

10. After Defendant obtained \$14,100 from Mr. and Mrs. Dalton by fraud and misrepresentation, failed to take any material action to resolve the social security garnishment action and the seizure of their income tax refund, and refused to produce an accounting for money given him or provide a copy of their file, Mr. and Mrs. Dalton had to hire another attorney resulting in the expenditure of additional funds. Their second attorney was able to present an offer in compromise to the appropriate federal agency that resolved the Daltons' liability to the SBA.

11. Defendant's conduct of taking money by false pretenses from the Daltons, failing to take any material action on their behalf, and refusing to account for the money given to him or to provide a copy of the client file while purportedly representing Mr. and Mrs. Dalton caused significant harm to Mr. and Mrs. Dalton, who suffered the loss of the money paid to Defendant and the time wasted by Defendant with no relief from their underlying legal problems until they retained another attorney.

12. Defendant's misrepresentations to Hayden, J. Dalton and D. Brown deceived them into believing that Defendant was working on their cases with reasonable diligence when in fact he misrepresented the status of their cases to cover for having accepted fees for work he did not perform, and in J. Dalton's case, for accepting money for a purported settlement and bond that he never obtained. Hayden was led to believe Defendant was working on his case for over two years, J. Dalton delivered \$13,700 to Defendant to be applied, in part, to a settlement and a bond, neither

of which took place, and D. Brown was led to believe that her traffic violation was resolved and she would soon be receiving paperwork from Defendant to use in reinstating her driver's license.

13. Defendant's misconduct and misrepresentations to these clients caused significant harm to these clients who were misled regarding the status of their cases and whether their goals in the representation were being met.

14. Defendant misled Hayden to believe his *pro se* MAR was being pursued by Defendant from 2015 through 2018, a MAR that was meritless as originally drafted. The public defender initially appointed to represent Hayden filed an *Anders* brief with the court stating that the MAR did not present any meritorious claims.

15. Defendant falsely told Hayden that he was continuing to negotiate Hayden's MAR with the district attorney to reduce Hayden's active sentence, and that a consent order was being considered by a judge. After Hayden submitted a petition to the FDRP, Defendant in April 2018 contacted M. Gibson, an official in the trial court administrator's office, to have Hayden's MAR put back on a superior court calendar for argument and final disposition even though Defendant told Few in 2015 that the MAR was being withdrawn and Defendant knew that MAR was without merit.

16. Defendant's conflicting statements to Few and the trial court administrator's office, officials in the trial court system, and his attempt to have Hayden's meritless MAR put back on a superior court calendar for argument and final disposition were prejudicial to the administration of justice and caused significant harm or potential significant harm to the administration of justice.

17. Obtaining property by false pretenses is a felony in North Carolina, N.C. Gen. Stat. § 14-100.

18. Defendant's conduct included a pattern of dishonesty, with specific efforts to mislead his clients Hayden, Mr. and Mrs. Dalton, J. Dalton and D. Brown and to obtain money from his clients by false pretenses. Clients are entitled to attorneys in whom they can trust. Intentional dishonest conduct on the part of a member of the North Carolina State Bar, as established by the findings of fact above, undermines the confidence of the public in attorneys and results in significant harm or potential significant harm to the legal profession.

19. Mr. and Mrs. Dalton and J. Dalton attended the hearing, presenting an opportunity for Defendant to express remorse to them for his conduct. Rather than express remorse to them, Defendant continued to maintain that the money he received from Mr. and Mrs. Dalton was for attorney's fees.

20. Defendant has a history of alcohol abuse dating back to at least 2009, and Defendant admitted at the hearing that his alcohol abuse impacted his conduct in the practice of law.

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

Conclusions With Respect To Discipline

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In doing so, the Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f)(1) and concludes that the following factors are present:

- (a) Intent of the defendant to cause the resulting harm or potential harm;
- (b) intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (c) circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (d) elevation of the defendant's own interest above that of the client;
- (e) negative impact of the defendant's actions on client's or public's perception of the profession;
- (f) negative impact of the defendant's actions on the administration of justice;
- (g) impairment of the client's ability to achieve the goals of the representation;
- (h) acts of dishonesty, misrepresentation, deceit, or fabrication; and
- (i) multiple instances of failure to participate in the legal profession's self-regulation process.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f)(2) and concludes that the following factors are present:

- (a) Acts of dishonesty, misrepresentation, deceit, or fabrication;
- (b) misappropriation or conversion of assets of any kind to which the defendant or recipient is not entitled whether from a client or any other source; and
- (c) commission of a felony.

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

- (a) Dishonest or selfish motive;
- (b) indifference to making restitution;
- (c) a pattern of misconduct;
- (d) multiple offenses;

- (e) bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency;
- (f) submission of false evidence, false statements, or other deceptive practices during the disciplinary process;
- (g) refusal to acknowledge wrongful nature of conduct; and
- (h) absence of remorse.

4. Defendant's misconduct and criminal activity resulted in significant or potential significant harm to his clients through intentional acts of dishonesty designed to mislead his clients and misappropriating to his own purpose money entrusted to him by his clients.

5. Defendant's pattern of misconduct noted above along with his criminal conduct caused significant harm or potential significant harm to the legal profession in that his actions bring the legal profession into disrepute.

6. The Hearing Panel has considered lesser alternatives and finds that suspension, censure, reprimand or admonition would be insufficient discipline because of the significant harm and potential significant harm to Defendant's clients and the significant harm or potential significant harm to the legal profession caused by Defendant's misconduct and criminal activity.

7. The Hearing Panel finds that discipline short of disbarment would not adequately protect the public, would fail to acknowledge the seriousness of the misconduct and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, the Hearing Panel, by unanimous decision, hereby enters the following:

Order of Discipline

1. Defendant, Clinton F. Moore, is hereby DISBARRED from the practice of law, effective thirty (30) days after this Order of discipline is served upon Defendant.

2. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days after the effective date of this Order.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code 1B § .0128 of the Rules and Regulations of the North Carolina State Bar. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 30 days of the effective date of this Order, certifying he has complied with the wind down provisions.

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

5. Within 15 days of the effective date of this Order Defendant shall provide the North Carolina State Bar with an address and telephone number where he can be contacted.

6. Prior to filing any petition for reinstatement, Defendant must be able to show, in addition to any other statutory or applicable rule requirements, that the following conditions have been met:

- (a) that Defendant made restitution to Mr. and Mrs. Dalton in the amount of \$14,100 and J. Dalton in the amount of \$13,700, and to the Client Security Fund for any claims paid to Defendant's clients;
- (b) that Defendant timely paid the fees and costs of this proceeding;
- (c) that Defendant was evaluated by a qualified medical professional for alcohol abuse and dependency, complied with all recommendations of professionals by whom he was evaluated and/or with whom he sought treatment, and has not actively used alcohol for a minimum of one year prior to applying for reinstatement as verified by random testing; and
- (d) that Defendant present the report of a mental health professional establishing, with disclosure of all relevant facts, testing and basis for his/her opinion, that Defendant does not have any mental or physical condition which significantly impairs the professional judgment, performance, or competence of an attorney.

SO ORDERED.

Signed by the Chair with the consent of the other Hearing Panel members, this the 11 day of September, 2019.



Donald C. Prentiss, Chair
Disciplinary Hearing Panel