

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
14 DHC 3

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ROYDERA D. HACKWORTH, Attorney,

Defendant

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
CONSENT ORDER OF DISCIPLINE

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Steven D. Michael, Chair, Walter E. Brock, Jr., and Bradley Lail pursuant to 27 N.C. Admin. Code 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten and Joshua T. Walthall. Defendant, Roydera D. Hackworth, was represented by John M. Kirby. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the entry of this order and to the discipline imposed. Defendant waives any right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based upon 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 ("Plaintiff" or "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 therein.

2. Defendant, Roydera D. Hackworth ("Defendant" or "Hackworth"), was admitted to the North Carolina State Bar on 22 March 1997 and is, and was at all times referred to herein, 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 a portion of the relevant periods referred to herein, Hackworth was actively engaged in the private practice of law in the city of Greensboro, Guilford County, North Carolina.

4. During a portion of the relevant periods referred to herein, Hackworth was suspended from the practice of law pursuant to the Disciplinary Hearing Commission's Order of Discipline in case no. 12 DHC 3.

5. In or around August 2011, Clint Aleong ("Aleong"), an Alabama resident, retained Hackworth for representation in a personal injury liability claim resulting from an August 2011 car accident in Alabama.

6. Immediately after being retained by Aleong, Hackworth informed the opposing party's insurance company that she represented Aleong in the personal injury liability claim.

7. Hackworth was never and is not currently licensed to practice law in the State of Alabama.

8. Hackworth's representation of Aleong was not permissible under the provisions of Rule 5.5 of the Alabama Rules of Professional Conduct that allow for certain limited representations in Alabama by attorneys admitted and in good standing in jurisdictions other than Alabama.

9. On 17 and 18 May 2012, the Disciplinary Hearing Commission of the North Carolina State Bar ("DHC") held a hearing in the case *North Carolina State Bar v. Roydera D. Hackworth*, case no. 12 DHC 3.

10. At the conclusion of the May 2012 hearing, the DHC suspended Hackworth from the practice of law in North Carolina for a period of four years, with the opportunity to apply for a stay after serving one year of active suspension time.

11. The suspension of Hackworth's license was effective on 17 August 2012.

12. Hackworth continued to represent Aleong in his personal injury liability claim after being suspended from the practice of law in North Carolina.

13. Hackworth never informed the insurance company that she was suspended from the practice of law.

14. Hackworth continued to hold herself out to all parties as being able to provide the services of an actively licensed attorney after being suspended from the practice of law in North Carolina.

15. On or about 1 February 2013, Hackworth resolved Aleong's personal injury liability claim by negotiating a settlement between Aleong and the opposing party's insurance company.

16. Hackworth's actions in continuing to represent Aleong after being suspended from the practice of law in North Carolina gave the insurance company the impression that Hackworth was a licensed attorney who was able to represent Aleong through the duration of the personal injury liability claim.

17. On 27 February 2013, the State Bar opened a grievance against Hackworth regarding her representation of Aleong, grievance file no. 13G0156.

18. On 6 June 2013, the State Bar sent Hackworth a Letter of Notice regarding grievance file no. 13G0156. Hackworth responded to the State Bar's Letter of Notice regarding 13G0156 on or about 18 June 2013.

19. In her response to the State Bar's Letter of Notice in grievance file no. 13G0156, Hackworth stated she had contacted the Alabama State Bar about her representation of Aleong, and that the Alabama State Bar confirmed her eligibility to represent Aleong in the state of Alabama regarding his personal injury liability claim.

20. Hackworth did not contact the Alabama State Bar about her representation of Aleong prior to engaging in the representation.

21. Although Defendant contacted the Alabama State Bar after the representation had concluded, the Alabama State Bar did not confirm Hackworth's eligibility to represent Aleong in the state of Alabama regarding his personal injury liability claim.

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

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Roydera D. Hackworth, and over 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. Gen. Stat. § 84-28(b)(2) as follows:

- a. By representing Aleong in a personal injury liability claim arising out of a car accident in Alabama, Hackworth engaged in the unauthorized practice of law in violation of Rule 5.5(a);
- b. By holding herself out as a licensed attorney and by continuing to represent Aleong in his personal injury liability claim after being suspended from the practice of law, Hackworth engaged in the unauthorized practice of law in violation of Rules 5.5(a) and 5.5(b)(2);
- c. By portraying herself to the opposing party's insurance company as a licensed attorney able to represent Aleong in his personal injury liability claim through resolution of the liability claim, Hackworth engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and
- d. By falsely claiming in her response to the State Bar's Letter of Notice that she had contacted the Alabama State Bar and confirmed her ability to represent Aleong in his personal injury liability claim in Alabama, Hackworth made a false statement of material fact in connection with a disciplinary matter in

violation of Rule 8.1(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c).

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

#### ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant was previously suspended pursuant to the Order of Discipline issued by the Disciplinary Hearing Commission in case no. 12 DHC 3 dated 22 June 2012. The basis for discipline in the 2012 Order of Discipline consisted of mismanagement of entrusted funds. The 2012 Order of Discipline suspended Defendant for four years, with Defendant being allowed to apply for a stay of the remaining portion of the suspension after one year. Defendant has not yet applied for a stay of the suspension imposed by the Order of Discipline in case no. 12 DHC 3.

2. Defendant's client in the present case – Clint Aleong – is Defendant's nephew. Defendant undertook the representation primarily to assist a family member and Defendant did not receive any type of payment for the services she provided to Aleong. Although Defendant's actions violated the Rules of Professional Conduct, Defendant did not have a selfish or dishonest motive in undertaking the representation.

3. Defendant misrepresented her professional status when she held herself out to the insurance company as able to provide legal services in Aleong's personal injury liability claim.

4. Defendant made a misrepresentation to the North Carolina State Bar when she indicated that she sought and received the Alabama State Bar's approval of her representation of Aleong.

5. Defendant's conduct caused potential significant harm to Aleong as well as the insurance company and other parties involved in the car accident by engaging in and facilitating settlement negotiations that were improper and potentially ineffectual because she was not an attorney licensed to practice law in Alabama or any other jurisdiction subsequent to the effective date of the Order of Discipline in case no. 12 DHC 3.

6. Defendant's conduct in the present action demonstrates Defendant's continued disregard for and lack of respect for the Rules of Professional Conduct and the orders issued by the Disciplinary Hearing Commission. Such disregard interferes with the State Bar's ability to regulate its members and protect the public. Moreover, it undermines the profession's privilege to remain self-regulating.

7. Defendant's conduct caused potential significant harm to the standing of the legal profession in the eyes of the public in that such conduct by attorneys erodes the trust of the public in the profession. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.

8. Defendant, who was licensed to practice law in North Carolina in 1997, has substantial experience in the practice of law.

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 carefully considered all of the different forms of discipline available to it. In addition, the hearing panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and determines the following factors are applicable:

- a. Defendant's prior disciplinary offenses in North Carolina;
- b. Defendant's lack of a dishonest or selfish motive regarding her representation of Aleong;
- c. Defendant's submission of false evidence, false statements, or other deceptive practices during the disciplinary process; and
- d. Defendant's substantial experience in the practice of law.

2. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes that although acts of dishonesty, misrepresentation, deceit, or fabrication are present in this case, disbarment is not necessary in order to protect the public.

3. The hearing panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and determines the following factors warrant suspension of Defendant's license:

- a. Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;
- b. Defendant's actions potentially had a negative impact on the public's perception of the legal profession;
- c. Defendant's conduct had a potential adverse affect on third parties; and
- d. Defendant's conduct included acts of dishonesty, misrepresentation, deceit, or fabrication.

4. The hearing panel has considered all other forms of discipline and concludes that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and to the public regarding the conduct expected of members of the Bar.

5. Due to the misrepresentations described in the present action as well as the significant potential harm resulting from Defendant's conduct, the hearing panel concludes that active suspension of Defendant's license for a significant and set period of time is the only discipline that will adequately protect the public from future transgressions by Defendant, that acknowledges the seriousness of the offenses Defendant committed, and that sends a proper message to attorneys and the public regarding the conduct expected of members of the Bar of this State. Such active suspension should run concurrently with the active suspension presently imposed by the Order of Discipline in case no. 12 DHC 3.

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

#### ORDER OF DISCIPLINE

1. The license of Defendant, Roydera D. Hackworth, is hereby suspended for 5 years. This Order shall be effective upon filing, and the suspension shall run concurrently with the terms of the suspension imposed by the Order of Discipline in case no. 12 DHC 3.

2. Defendant has already submitted her membership card to the Secretary of the North Carolina State Bar. Defendant has also complied with the wind down provisions contained in Rule .0124 of the North Carolina State Bar Discipline and Disability Rules, located at 27 N.C. Admin. Code 1B § .0124.

3. Defendant shall pay the costs and administrative fees of this proceeding as assessed by the Secretary within 90 days of service of the statement of costs upon her.

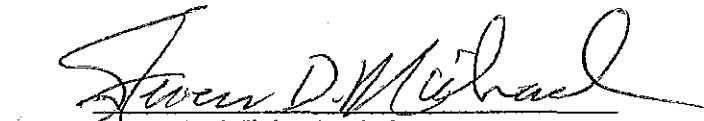
4. At the end of the 5 year active period of suspension, Defendant may apply for reinstatement by filing a petition with the DHC in accordance with the North Carolina State Bar Discipline and Disability Rules and by showing by clear, cogent, and convincing evidence that she has complied with the following conditions for reinstatement:

- a. That she has complied with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B § .0125 of the North Carolina State Bar Discipline and Disability Rules;
- b. That she satisfied the reinstatement requirements set forth in the Order of Discipline in case no. 12 DHC 3 and/or any other subsequent order of this Commission, the Court, or the State Bar Council;
- c. That she completed twelve hours of ethics-related continuing legal education, with such courses being approved in advance by the Office of Counsel;
- d. That she obtain a passing grade on the Multistate Professional Responsibility Exam (MPRE) within 6 months of her application for reinstatement;
- e. That she has paid all membership dues and Client Security Fund assessments and that there is no deficit in her fulfillment of any obligation of membership;

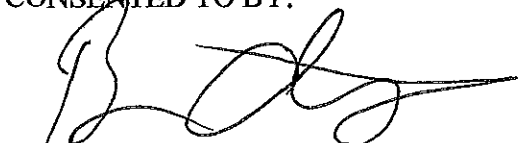
- f. That she has kept the North Carolina State Bar membership department advised of her current physical home and business addresses and telephone numbers (not a P.O. box), and that she has accepted all certified mail from the North Carolina State Bar and responded to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen (15) days of receipt of such communication, whichever is sooner;
- g. That she has not violated any state or federal laws or any provisions of the Rules of Professional Conduct; and
- h. That she has timely paid all costs and administrative fees associated with this case as assessed by the Secretary.

5. Defendant may file a petition seeking reinstatement pursuant to 27 N.C. Admin. Code 1B § .0125 up to 30 days prior to the end of the 5 year period but shall not be reinstated prior to the end of that 5 year period.

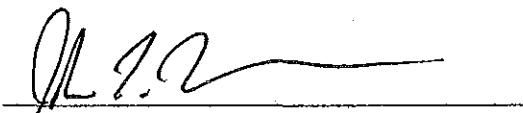
Signed by the Chair with the consent of the other hearing panel members, this the 12<sup>th</sup> day of June, 2014.

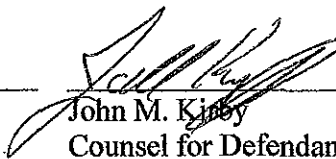
  
Steven D. Michael, Chair  
Disciplinary Hearing Panel

CONSENTED TO BY:

  
Brian P.D. Oten  
Deputy Counsel  
North Carolina State Bar  
Counsel for Plaintiff

  
Roydera D. Hackworth  
Defendant

  
Joshua T. Walthall  
Deputy Counsel  
North Carolina State Bar  
Counsel for Plaintiff

  
John M. Kirby  
Counsel for Defendant