

FILED

WAKE COUNTY 2009 FEB 16 AM 10:54 IN THE GENERAL COURTS OF JUSTICE  
 NORTH CAROLINA WAKE COUNTY, C.S.C. SUPERIOR COURT DIVISION  
 09 CVS

THE NORTH CAROLINA STATE BAR,  
 PETITIONER,

v.

TROY ANTHONY SMITH, ATTORNEY,  
 RESPONDENT.

CONSENT ORDER  
 OF  
 DISBARMENT

THIS MATTER came on to be heard and was heard by the undersigned Judge of the Superior Court of Wake County. Petitioner, the North Carolina State Bar, was represented by Katherine E. Jean. Respondent, Troy Anthony Smith, was represented by Christopher C. Fialko.

Based upon the Affidavit of Surrender of Law License submitted to the court by Troy Anthony Smith, the court makes the following:

#### FINDINGS OF FACT

1. Troy Anthony Smith operated a law office in Waxhaw, North Carolina.
2. Smith has entered a plea of guilty in the United States District Court for the Western District of North Carolina to the following criminal offenses: (a) engaging in a conspiracy with members of Mortgage Fraud Cell No. 1 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (b) engaging in a conspiracy with members of Mortgage Fraud Cell No. 2 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (c) engaging in a conspiracy with members of Mortgage Fraud Cell No. 1 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957; and (d) engaging in a conspiracy with members of Mortgage Fraud Cell No. 2 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957.
3. Smith is in fact guilty of these charges.

Based upon the foregoing Findings of Fact, the court makes the following:

## CONCLUSIONS OF LAW


1. By (a) engaging in a conspiracy with members of Mortgage Fraud Cell No. 1 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (b) engaging in a conspiracy with members of Mortgage Fraud Cell No. 2 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (c) engaging in a conspiracy with members of Mortgage Fraud Cell No. 1 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957; and (d) engaging in a conspiracy with members of Mortgage Fraud Cell No. 2 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957, Smith violated Rules 8.4(b) and (c) of the North Carolina Revised Rules of Professional Conduct.

2. Smith's misconduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. Section 84-28(b)(2).


### IT IS NOW, THEREFORE, ORDERED:

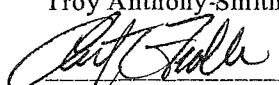
1. Troy Anthony Smith is DISBARRED from the practice of law in North Carolina.
2. Troy Anthony Smith shall comply with the provisions of Subchapter B, Section .0124 of the Rules and Regulations of the North Carolina State Bar and shall surrender his license and permanent membership card to the Secretary of the North Carolina State Bar along with the affidavit required by Subchapter B, Section .0124.
3. The costs of this action are taxed against Troy Anthony Smith.


Done and Ordered this 16<sup>th</sup> day of February 2009.

  
Superior Court Judge Presiding

WE CONSENT:

  
Troy Anthony-Smith

  
Christopher C. Fialko  
Attorney for Respondent

  
Katherine E. Jean  
Attorney for the North Carolina State Bar

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AFFIDAVIT OF  
 SURRENDER OF LAW  
 LICENSE

Troy Anthony Smith, being first duly sworn, deposes and says as follows:

1. I desire to resign and hereby tender my license to practice law in North Carolina.
2. My resignation is freely and voluntarily rendered. It is not the result of coercion or duress. I am fully aware of the implication of submitting my resignation.
3. I am aware that there is pending an investigation regarding allegations that I (a) engaged in a conspiracy with members of Mortgage Fraud Cell No. 1 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (b) engaged in a conspiracy with members of Mortgage Fraud Cell No. 2 to commit offenses against the United States, including making a false statement in relation to a loan, engaging in mail fraud, engaging in wire fraud and engaging in bank fraud, in violation of 18 U.S.C. 1014, 1341, 1343 and 1344; (c) engaged in a conspiracy with members of Mortgage Fraud Cell No. 1 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957; and (d) engaged in a conspiracy with members of Mortgage Fraud Cell No. 2 to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, such property having been derived from a specified unlawful activity in violation of 18 U.S.C. 1957.
4. My agreement to plead guilty to these charges has been filed in the United States District Court for the Western District of North Carolina. I am in fact guilty of these charges.

5. I acknowledge the truth of the material facts upon which the investigation is predicated.

6. I am submitting my resignation because I know that if disciplinary charges were predicated upon the misconduct under investigation, I could not successfully defend against them.

This the 10<sup>th</sup> day of February, 2009.

Troy Anthony Smith  
Troy Anthony Smith

I, Lilly D. Fine, Notary Public of the County of Mecklenburg, State of North Carolina, certify that Troy Anthony Smith personally appeared before me this day, was sworn, attested that the foregoing Affidavit is true and accurate of his own personal knowledge, and executed the foregoing Affidavit.

This the 10 day of February, 2009.

Lilly D. Fine  
Notary Public

My Commission Expires: 3/30/2011