

FILED

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

2013 JUL 24 PM 2: 53

SUPERIOR COURT DIVISION

WAKE COUNTY

FILE NO.: 13 M _____

WAKE CO., C.S.C.

IN THE MATTER OF THE TENDER OF
SURRENDER OF THE LAW LICENSE
OF

CONSENT ORDER
OF DISBARMENT

PHILLIP GRAHAM ROSE, Attorney

THIS MATTER came before the undersigned Judge of the Superior Court of Wake County upon the tender of surrender of his law license by Phillip Graham Rose.

Based upon the Affidavit of Surrender of Law License submitted to the Court by Respondent, Phillip Graham Rose (hereinafter "Rose"), the Court makes the following:

FINDINGS OF FACT

1. Rose was admitted to the North Carolina State Bar in August 1995 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, 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.

2. During all of the periods relevant hereto, Rose was engaged in the practice of law in Raleigh, North Carolina.

3. Rose is aware that there is presently pending an investigation regarding allegations that he conspired to engage in mortgage fraud and participated in said fraud by falsely indicating on the HUD-1 Settlement Statements he created for real estate transactions that the borrowers in the transactions brought funds to closing when in fact the funds were provided by the seller. Rose has pled guilty to the charge of conspiracy to commit mail fraud, wire fraud, and bank fraud arising from this conduct, in the United States District Court for the Eastern District of North Carolina, Docket No. 5:12-CR-290-1.

4. Rose desires to resign his license to practice law and has tendered his license to practice law in North Carolina.

5. Rose's resignation is freely and voluntarily rendered. It is not the result of coercion or duress. Rose is fully aware of the implication of submitting his resignation.

6. Rose acknowledges that the material facts upon which the investigation is predicated are true.

7. Rose has submitted his resignation because he knows that if disciplinary charges were predicated upon the misconduct under investigation, he could not successfully defend against them.

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

CONCLUSIONS OF LAW

1. By falsely indicating on the HUD-1 Settlement Statements he created for real estate transactions that the borrowers in the transactions brought funds to closing when in fact the funds were provided by the seller, Rose engaged in criminal conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(b) and (c) of the North Carolina State Bar Rules of Professional Conduct.

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

3. The Courts of this State have the inherent authority to take disciplinary action against attorneys practicing therein.

4. This Court has jurisdiction over the person of Phillip Graham Rose and of the subject matter of this proceeding.

5. Rose has engaged in professional misconduct warranting disbarment.

IT IS NOW, THEREFORE, ORDERED:

1. Phillip Graham Rose is DISBARRED from the practice of law in North Carolina.

2. Rose shall comply with the provisions of 27 N.C. Admin. Code, Chapter 1, 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 § .0124. Rose shall have thirty (30) days from the date of the entry of this order to complete the requirements of § .0124.

3. Within 15 days of the effective date of this Order Rose shall provide the State Bar with the name, address and telephone number of a person who has agreed to act as custodian of Rose's client files and who clients can contact to obtain their files. Rose's designated custodian shall promptly return client files to clients upon request.

4. Rose shall not petition for reinstatement of his law license, and shall not be eligible for reinstatement, until the expiration of at least five (5) years from the date of this order.

5. Rose's law license shall not be reinstated until he has demonstrated by clear, cogent, and convincing evidence to the satisfaction of the Disciplinary Hearing Commission and the Council of the North Carolina State Bar that he has complied with terms of this order and 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0125.

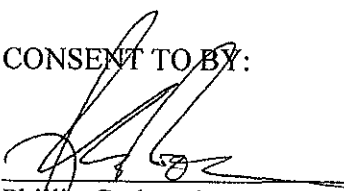
6. The costs of this action are taxed against Rose.

Done and Ordered this 24 day of July, 2013.



Superior Court Judge Presiding

CONSENT TO BY:



Phillip Graham Rose
Respondent



Joe Zeszotarski
Counsel for Respondent

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 13 M


WAKE COUNTY

AFFIDAVIT TENDERING THE SURRENDER OF THE LICENSE OF
PHILLIP GRAHAM ROSE

I, Phillip Graham Rose, being first duly sworn, say:

1. I desire to resign and hereby tender my license to practice law in North Carolina pursuant to the provisions of Section .0117 of the North Carolina State Bar Discipline and Disability Rules, 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0117.
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 presently pending an investigation regarding allegations that I conspired to engage in mortgage fraud and participated in said fraud by falsely indicating on the HUD-1 Settlement Statements I created for real estate transactions that the borrowers in the transactions brought funds to closing when in fact the funds were provided by the seller. I have pled guilty to the charge of conspiracy to commit mail fraud, wire fraud, and bank fraud arising from this conduct, in the United States District Court for the Eastern District of North Carolina, Docket No. 5:12-CR-290-1.
4. I acknowledge that the material facts upon which the investigation is predicated are true.
5. My resignation is being submitted because I know that if charges were predicated upon the misconduct under investigation, I could not successfully defend against them.

Respectfully submitted, this the 23 day of July, 2013.



Phillip Graham Rose

I, Whitney B. Hill, Notary Public of the County of Wake, State of North Carolina, certify that Phillip Graham Rose 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 23 day of July, 2013.

Whitney B. Hill
Notary Public

My commission expires: 6-28-2014

