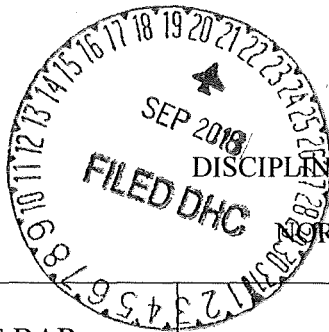


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
18 DHC 37

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JONATHAN HOLMES HUNT, Attorney,

Defendant

CONSENT ORDER  
OF  
DISCIPLINE

This matter came on for consideration before a Hearing Panel of the Disciplinary Hearing Commission ("DHC") composed of Fred M. Morelock, Chair, and members Maya Madura Engle and Ronald C. Brinson, pursuant to 27 N. C. Admin. Code 1B.0115(i). Plaintiff was represented by Mary D. Winstead. Defendant, Jonathan Holmes Hunt, was represented by Alan M. Schneider. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order and to the discipline imposed. Defendant has freely and voluntarily stipulated to the findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives any and all right to appeal the entry of this Consent Order of Discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters the following:

**FINDINGS OF FACT**

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Jonathan Holmes Hunt ("Hunt" or "Defendant"), was admitted to the North Carolina State Bar in March 2008 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and was employed as an Assistant Appellate Defender in Durham, Durham County, North Carolina.

4. On or about January 12, 2016, Hunt was assigned to represent Rachel Sheri Wilson-Angeles (“Wilson-Angeles”) in the appeal of her criminal case.
5. The brief for Wilson-Angeles was due to be filed and served on the State no later than August 16, 2016.
6. Hunt signed the certificate of service accompanying the brief in State v. Wilson-Angeles, COA 16-677, and the Appeal Information Statement (AIS), certifying that he had served the brief and AIS on opposing counsel by mail on August 16, 2016.
7. Hunt did not mail the brief or AIS to opposing counsel on August 16, 2016, despite certifying that he had done so.
8. Hunt mailed the brief and AIS to opposing counsel after August 16, 2016.
9. On or about March 23, 2016, Hunt was assigned to represent Layton Allen Waters (“Waters”) in the appeal of his criminal case.
10. The brief for Waters was due to be filed and served on the State no later than January 5, 2017.
11. Hunt signed the certificate of service accompanying the brief in State v. Waters, COA 16-985, and the AIS, certifying that he had served the brief and AIS on opposing counsel by mail on January 5, 2017.
12. Hunt did not mail the brief or AIS to opposing counsel on January 5, 2017, despite certifying that he had done so.
13. Hunt mailed the brief and AIS to opposing counsel after January 5, 2017.
14. Additionally, Hunt filed a Petition for Writ of Certiorari in State v. Waters and signed the accompanying certificate of service certifying service by mail on January 11, 2017.
15. Hunt did not mail the petition on January 11, 2017, despite certifying that he had done so.
16. Hunt mailed the brief and AIS to opposing counsel after January 11, 2017.
17. On or about June 15, 2016, Hunt was assigned to represent Tristan Vanhess Wilson (“Wilson”) in the appeal of his criminal case.
18. The brief for Wilson was due to be filed and served on the State no later than December 30, 2016.
19. Hunt signed the certificate of service accompanying the brief in State v. Wilson, COA 16-1215, certifying that he had served the brief on opposing counsel by mail on December 30, 2016.

20. Hunt did not mail the brief on December 30, 2016, despite certifying that he had done so.

21. Hunt mailed the brief to opposing counsel after December 30, 2016.

22. Additionally, Hunt filed a Petition for Writ of Certiorari in State v. Wilson and signed the accompanying certificate of service that he had served the petition on opposing counsel service by mail on January 3, 2017.

23. Hunt did not mail the petition to opposing counsel on January 3, 2017, despite certifying that he had done so.

24. Hunt mailed the petition to opposing counsel after January 3, 2017.

Based upon the consent of the parties and the foregoing stipulated 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 and the subject matter of this proceeding.

2. Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- (a) By signing the certificate of service certifying that he had mailed the Wilson-Angeles brief and AIS to opposing counsel on August 16, 2016 when in fact he had not, Hunt made a false statement of material fact or law to a tribunal in violation of Rule 3.3(a)(1); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (b) By signing the certificate of service certifying that he had mailed the Waters brief and AIS to opposing counsel on January 5, 2017 and the petition for writ of certiorari to opposing counsel on January 11, 2017 when in fact he had not, Hunt made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By signing the certificates of service certifying that he had mailed the Hunt brief to opposing counsel on December 30, 2016 and had mailed the petition for writ of certiorari to opposing counsel on January 3, 2017 when in fact he had not, Hunt made false statements of material fact or law to a tribunal in violation of Rule 3.3(a)(1); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

- (d) By failing to timely file and serve the Wilson-Angeles, Waters, and Wilson briefs, Hunt failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3.

Upon the consent of the parties, the Hearing Panel also finds by clear, cogent, and convincing evidence the following:

#### **FINDINGS OF FACT REGARDING DISCIPLINE**

1. When attorneys falsify court filings, there is a potential for significant harm to the legal profession, the administration of justice, and the public's perception of the profession.
2. The clients Defendant represented while employed by the Appellate Defender's Office were indigent and depended on Defendant to timely and competently pursue their appellate matters.
3. The Appellate Defender's Office filed motions requesting that the Court of Appeals deem timely the filings in the three cases referred to in the above findings of fact and conclusions of law and requested that the certificates of service be corrected to reflect the correct dates and the Court granted the motions.
4. As a result of the prompt corrective action taken by the Appellate Defender's Office, no client was actually harmed although the potential for harm to the clients was significant.
5. Defendant has voluntarily elected not to practice law since he resigned from the Appellate Defender's Office on January 28, 2017.
6. During 2015 and 2016, Defendant experienced great stress in his personal life and professionally.
7. According to Defendant's psychiatrist, Defendant experienced a major depressive episode and numerous side effects, including cognitive impairment, from the depression, the medications and treatments therefor, which affected his work in 2015 and 2016.
8. Defendant's psychiatrist opines that Defendant has fully recovered from these problems and is capable of resuming the practice of law.
9. When the misconduct described herein came to light, Defendant promptly and voluntarily sought assistance from the Lawyer Assistance Program (LAP), participated in group sessions through LAP, and has maintained contact with LAP.
10. Defendant also participated in individual psychotherapy sessions at Duke University Medical Center from April 2017 through March 2018.
11. Defendant has no prior professional discipline.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

### **CONCLUSIONS REGARDING DISCIPLINE**

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

- (a) intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (b) circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (c) negative impact of defendant's actions on client's or public's perception of the profession;
- (d) negative impact of the defendant's actions on the administration of justice;
- (e) effect of defendant's conduct on third parties; and
- (f) acts of dishonesty, misrepresentation, deceit, or fabrication.

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

- (a) acts of dishonesty, misrepresentation, deceit, or fabrication.

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

- (a) absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct;
- (d) multiple offenses;
- (e) effect of any personal or emotional problems on the conduct in question and Defendant's subsequent efforts to address those problems;
- (f) effect of any physical or mental disability or impairment on the conduct in question;
- (g) full and free disclosure to the hearing panel or cooperative attitude toward the proceedings;
- (h) vulnerability of victim; and

(i) degree of experience in the practice of law.

4. The Hearing Panel considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

5. The Hearing Panel concludes that discipline short of suspension would not adequately protect the public for the following reasons:

- a) Defendant's conduct reflects adversely on his trustworthiness and fitness as an attorney;
- b) Entry of an order imposing less severe discipline would fail to acknowledge the seriousness of the misconduct and would end the wrong message to attorneys about conduct expected of members of the Bar of this State.

6. Ordinarily, the type of misconduct present here would warrant a period of active suspension. However, the DHC has determined that a stayed suspension is appropriate given the particular facts and circumstances of this case, to include lack of any prior disciplinary history, lack of actual client harm, the Defendant's admission of wrongdoing and cooperation with the proceedings, the emotional and personal problems that Defendant experienced, and his voluntary decision not to engage in the practice of law for the past seventeen months while he addressed his mental health issues and made significant strides in that regard.

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

### **ORDER OF DISCIPLINE**

1. The law license of Defendant, Jonathan Holmes Hunt, is hereby suspended for one year effective thirty days after service of this Order upon Defendant.

2. The one year suspension is stayed for three years as long as Defendant complies, and continues to comply with the following conditions each year the stay is in effect:

- a) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and notify the Bar of any change in address within ten days of such change;
- b) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program ("ACAP"), within thirty days of Defendant's receipt of the communication or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition filed with ACAP;

- c) Defendant shall remain current in payment of all State Bar membership dues, fees, and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from him, including all judicial district dues, fees and assessments;
- d) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during the stayed suspension;
- e) Defendant shall continue his participation in the LAP program throughout the period of the stayed suspension and shall comply with all LAP staff recommendations for counseling and treatment, including, but not limited to, attending monthly group therapy;
- f) Defendant shall remain in psychiatric treatment and shall comply with all of his psychiatrist's recommendations for counseling and treatment;
- g) Defendant shall enroll in and regularly attend the fall 2018 adult ADD treatment group program at Duke University or such other group program approved by the State Bar;
- h) Within ten days of entry of this order, Defendant shall provide written releases to the North Carolina State Bar Office of Counsel, authorizing all providers from whom he receives treatment for any psychological, emotional, or behavioral condition to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the provider's treatment recommendations. Defendant shall not revoke these releases during the period of the stayed suspension;
- i) Defendant shall ensure that each mental health provider from whom he receives treatment for any psychological, emotional, or behavioral condition sends quarterly written reports (due January 30, April 30, July 30, and October 30 each year of the stayed suspension) on a timely basis to the State Bar confirming that he is: in compliance with all treatment recommendations and is not suffering from any physical or mental condition that significantly impairs his professional judgment, performance, or competence as an attorney. Defendant shall be solely responsible for the costs of treatment and any additional charges assessed for preparation of the quarterly reports;
- j) If Defendant engages in the private practice of law, he must arrange for an active member of the North Carolina State Bar to serve as his law practice monitor for the duration of the stay of his suspension. Defendant's monitor shall be an attorney in good standing who practices law in the judicial district in which Defendant proposes to practice law and who has been approved by the Office of Counsel. Defendant shall pay the cost, if any, charged by the monitoring attorney for this supervision. Defendant must provide the Office of Counsel with a letter from the approved monitoring attorney confirming his or her agreement to: (a)

meet with Defendant monthly to review Defendant's cases; (b) provide supervision to ensure that Defendant timely and completely handles client matters; and (c) provide written quarterly reports of this supervision to the Office of Counsel on the following dates as they occur during the duration of the stay of the suspension: January 30, April 30, July 30, and October 30. Defendant will be responsible for the cost, if any, charged by the monitor for this supervision;

- k) If Defendant is not engaged in the private practice of law, he must submit an affidavit so stating to the State Bar by January 30, April 30, July 30, and October 30 each year of the stayed suspension;
- l) Defendant shall timely comply with all Continuing Legal Education ("CLE") requirements;
- m) In addition to the CLE requirements set out in 27 N.C. Admin. Code 1D.1518, Defendant shall, within six months of the effective date of this Order and each year of the suspension thereafter, complete at his own expense, two hours of Continuing Legal Education (CLE) in the area of substance abuse and mental health. Defendant shall provide written proof of successful completion of the substance abuse and mental health courses to the Office of Counsel within ten days of completion of each course;
- n) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stayed suspension; and
- o) Defendant shall not violate any law of the State of North Carolina or of the United States during the period of the stayed suspension.

3. If during the stay of the suspension Defendant fails to comply with any one or more of the conditions stated in paragraphs 2 (a) through (o) above, the stay of the suspension of his law license may be lifted as provided in Rule .0118(a) of the North Carolina State Bar Discipline and Disability Rules.

4. If the stay of the suspension is lifted and the suspension is activated for any reason, Defendant may petition for reinstatement after serving the activated suspension by filing a petition pursuant to Rule .0129(b) of the North Carolina State Bar Discipline and Disability Rules (27 N.C. Admin. Code 1B.0129) demonstrating compliance with the requirements therein as well as the following requirements by clear, cogent, and convincing evidence:

- a) Defendant properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code 1B.0128 of the State Bar Discipline & Disability Rules;
- b) Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty days after the date of the order lifting the stay and/or activating the suspension of his law license;



- c) Defendant has provided written releases to the Office of Counsel, authorizing all mental health providers from whom he received treatment to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the provider's treatment recommendations;
- d) Defendant has come into compliance with any outstanding CLE or membership obligations at the time of the filing of his petition for reinstatement;
- e) Defendant successfully completed the CLE hours as set forth in paragraph 1(m) above;
- f) Defendant kept the Membership Department of the State Bar advised of his physical address (not a Post Office box), telephone number, and e-mail address throughout the period of his suspension;
- g) Defendant accepted all certified mail from the State Bar sent to the address on record with the Membership Department of the North Carolina State Bar;
- h) Defendant responded to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated therein with full and complete responses and all requested documentation;
- i) Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension;
- j) Defendant did not violate any laws of the State of North Carolina or of the United States during the period of the suspension; and
- k) Defendant paid all costs and administrative fees of this proceeding as assessed by the Secretary by the date of the filing of his petition for reinstatement.

5. If the stay of suspension is lifted and the suspension is activated for any reason, and if Defendant fails to fully comply with 27 N.C. Admin. Code 1B.0128 and the Court appoints a trustee to wind down any portion of Defendant's practice, Defendant shall reimburse the State Bar for all expenses incurred by the State Bar in winding down Defendant's practice. Such expenses may include, but are not limited to, storage facility fees, rent payments, moving expenses, charges for secure disposal of client files, postage or other mailing expenses, and compensation paid to the trustee and/or the trustee's assistant for time and travel associated with the trusteeship. After the Court has discharged the trustee, the State Bar shall send an invoice of wind-down expenses to Defendant at Defendant's last known address of record with the North Carolina State Bar. Defendant shall not be eligible for reinstatement until he has reimbursed the State Bar for all wind-down expenses incurred.

6. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end three years from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to 27 N.C. Admin. Code 1B.0118(a) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction

until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the two year suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

7. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary of the North Carolina State Bar which shall be paid within thirty days of service of the statement of costs upon Defendant.

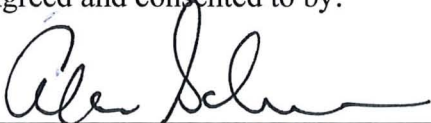
Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

This the 21 day of September 2018.



Fred M. Morelock, Chair  
Disciplinary Hearing Panel

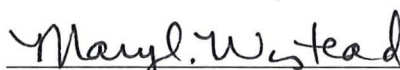
Agreed and consented to by:



Alan M. Schneider  
Attorney for Defendant



Jonathan Holmes Hunt  
Defendant



Mary D. Winstead  
Attorney for Plaintiff