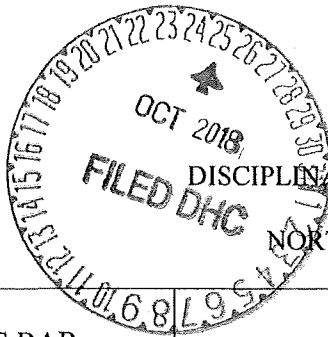


STATE OF NORTH CAROLINA

WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ARNOLD O. JONES II, Attorney,

Defendant

CONSENT ORDER OF DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission ("DHC") composed of Allison C. Tomberlin, Chair, and members Fred W. DeVore III and Michael S. Edwards, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0115(i). Plaintiff, the North Carolina State Bar, was represented by Carmen Bannon. Defendant, Arnold O. Jones II, was represented by Alan Schneider. Both Plaintiff and Defendant stipulate and agree to the findings of fact and conclusions of law recited in this Order and to the discipline imposed. Defendant freely and voluntarily stipulates to the findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant freely and voluntarily waives his right to appeal this Consent Order of Discipline.

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

FINDINGS OF FACT

1. Plaintiff, the North Carolina 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, Arnold O. Jones, was admitted to the North Carolina State Bar in April 1991 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. Jones was properly served with the summons and complaint in this matter.
4. During the relevant period referred to herein, Jones was a Superior Court Judge in North Carolina's Eighth Judicial District. Jones is no longer a member of the judiciary.

5. In 2015, Jones asked a law enforcement officer to obtain text messages between Jones's wife and another man, with whom Jones suspected she was having an affair.

6. Jones sought these text messages for personal use; they were not related to any judicial or law enforcement purpose.

7. There was no probable cause to believe that the text messages constituted evidence of a crime.

8. The officer told Jones that he lacked the requisite probable cause to legally obtain the text messages, but Jones—who was at that time a sitting Superior Court Judge—asked the officer to “see what [he] could do.”

9. Jones initially offered to give the officer two cases of beer in exchange for obtaining the text messages, but later agreed to pay him \$100.00.

10. The officer subsequently informed Jones that he had managed to obtain a federal search warrant for the text messages Jones wanted.

11. When the officer produced what Jones believed to be a disc containing the requested private electronic communications between Jones's wife and a third party, Jones paid the officer \$100.00.

12. The exchange took place in the Wayne County courthouse.

13. In connection with the conduct described above, in March 2017 Jones pled guilty and was convicted in federal court of promising and paying a gratuity to a public official, a felony offense under 18 U.S.C. § 201(c)(1)(A).

Based upon the consent of the parties and 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 Hearing Commission has jurisdiction over Defendant and 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)(1) in that he was convicted of a criminal offense showing professional unfitness and (b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of his actions as follows:

- (a) By attempting to induce a law enforcement officer to obtain evidence unrelated to any judicial or law enforcement purpose and without probable cause, Jones engaged in conduct involving dishonesty in violation of Rule 8.4(c) and conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and

- (b) By engaging in the felony offense of promising and paying a gratuity to a public official, Jones committed a criminal act reflecting adversely on his trustworthiness or fitness in violation of Rule 8.4(b).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel also enters the following:

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 13 above are reincorporated as if set forth herein.
2. Jones knew at the time he engaged in the conduct described above that it was improper.
3. At the time of his misconduct, Jones was under significant personal stress due to the recent dissolution of his first marriage and his suspicions regarding his second wife's infidelity. He was also suffering from periods of depression, and was distressed about his son's deterioration due to a recently-diagnosed chronic degenerative disease. These stressors all contributed to the severe lapse of judgment that led Jones to engage in misconduct.
4. There was considerable regional media coverage of Jones's arrest, prosecution, and conviction, with headlines such as "NC Superior Court judge arrested on bribery, corruption charges" and "Ex-NC judge pleads guilty to bribery." The coverage had a negative effect on the public's perception of the judicial system.
5. Jones has been licensed to practice law for more than 25 years, and has no prior professional discipline.
6. Many members of Jones's community remain supportive of him and attest to his reputation as a compassionate person and a principled member of the bar.
7. Jones was sentenced by the U.S. District Court to two years of probation and required to pay a \$5,000.00 fine.
8. As a result of his criminal conviction, Jones forfeited his entitlement to compensation under the North Carolina state judicial retirement system.
9. Jones entered into a consent order with the Judicial Standards Commission wherein he agreed that he would never again serve in any judicial office in North Carolina.
10. Jones has been fully cooperative with the State Bar's investigation and prosecution, and he is sincerely remorseful for his conduct.
11. The Hearing Panel has carefully 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.

Based upon the Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline, and the consent of the parties, the Hearing Panel makes the following

ADDITIONAL CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it and has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f).

2. The Hearing Panel concludes that the following factors from Rule .0116(f)(1) warrant consideration of suspension of Defendant's license:

- (a) circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity; and
- (b) negative impact of the defendant's actions on the public's perception of the profession;

3. The Hearing Panel has considered all of the factors enumerated in Rule .0116(f)(2) and concludes that although Defendant engaged in dishonest conduct and committed a felony, disbarment is not required under the unique circumstances of this case.

4. The Hearing Panel has considered all of the factors enumerated in Rule .0116(f)(3) and concludes the following factors are applicable:

- (a) no prior disciplinary offenses in this state or any other jurisdiction;
- (b) effect of any personal or emotional problems on the conduct in question;
- (c) cooperative attitude toward the proceedings;
- (d) remorse;
- (e) character or reputation;
- (f) degree of experience in the practice of law; and
- (g) imposition of other penalties or sanctions.

5. The Hearing Panel has considered admonition, reprimand and censure as potential discipline but finds that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant.

6. In light of Defendant's dishonest act and the significant harm to the profession resulting from Defendant's conduct, the Hearing Panel concludes that no discipline short of suspension of Defendant's license will adequately acknowledge the seriousness of the offenses Defendant committed and send the proper message to attorneys and the public regarding the conduct expected of members of the Bar of this State.

7. Ordinarily, conviction of a felony warrants imposition of the most severe discipline, often disbarment. This is because felony convictions often involve conduct that reflects dishonest

character, and it is important that the public and other lawyers in North Carolina understand there are serious consequences when a lawyer displays character that is not worthy of the public trust. Moreover, a lawyer's conviction of a felony undermines the public's confidence in the integrity of the legal profession and therefore necessitates the imposition of significant professional discipline. In the present case, the Hearing Panel finds and concludes that the circumstances justify lesser discipline than would otherwise be appropriate upon a lawyer's conviction of a felony. The following circumstances justify a suspension rather than disbarment in this case:

- (a) Defendant's difficult personal circumstances, depression, and emotional vulnerability within his marriage, which made him particularly susceptible to this severe lapse of judgment;
 - (b) The dishonest conduct was an aberration, wholly inconsistent with Defendant's reputation as a person of good character;
 - (c) The misconduct occurred exclusively in reference to a highly personal matter, not in the performance of Defendant's judicial duties or in the practice of law;
 - (d) It is extremely improbable that the situation in which Defendant engaged in misconduct will recur; and
 - (e) Defendant is genuinely remorseful for his actions and is very unlikely to engage in similar acts in the future.
8. Defendant should be taxed with the administrative fees and costs of this action.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings and Conclusions Regarding Discipline, and the consent of the parties, the Hearing Panel enters the following

ORDER OF DISCIPLINE

1. Defendant's law license is hereby suspended for five years, effective 60 days after service of this Order upon Defendant.
2. Defendant shall surrender his law license and permanent membership card to the Secretary of the North Carolina State Bar no later than 30 days following the effective date of this Order. If Defendant no longer has his license and/or membership card, he shall so state in the affidavit referred to in paragraph 3 below.
3. Defendant shall comply with the wind-down provisions contained in Rule .0128 of the North Carolina State Bar Discipline and Disability Rules, 27 N.C. Admin. Code 1B § .0128. As provided in § .0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.
4. Within 60 days after service of this Order, Defendant shall provide the State Bar's Office of Counsel with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain their files.

5. Defendant shall promptly return client files in his possession, custody, or control to clients within five days after receiving a client's request for the file. Defendant will be deemed to have received a client's request for his or her file three days after the date the request is sent if the request is sent to the address Defendant provides to the State Bar pursuant to paragraph 4, above.

6. Within 30 days of the effective date of this Order, Defendant shall provide documentation to the Office of Counsel demonstrating that he has disbursed any funds remaining in his attorney trust account to the rightful owners and has initiated the escheatment process for any funds in the trust account required to be escheated.

7. Defendant shall pay the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 30 days of service upon him of the statement of administrative fees and costs.


8. At the conclusion of the five-year suspension, Defendant may petition for reinstatement to active practice by filing a verified petition with the Secretary of the North Carolina State Bar. Defendant may file a petition for reinstatement up to 30 days prior to the end of the suspension but shall not be reinstated prior to the end of the five-year suspension period. In addition to complying with the general provisions for reinstatement listed in 27 N.C. Admin. Code 1B §.0129(b), to be eligible for reinstatement Defendant must demonstrate by clear, cogent, and convincing evidence that during the period of suspension he complied with the following conditions:

- (a) Defendant shall timely comply with paragraphs 2-7 of this section of the Order of Discipline;
- (b) Defendant shall keep the North Carolina State Bar membership department advised of her current physical home and business addresses and telephone numbers, and shall notify the membership department within ten days of any change in contact information;
- (c) Defendant shall accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadline stated in the communication;
- (d) Defendant shall timely comply with State Bar membership and continuing legal education requirements, and shall pay any fees and costs assessed by the State Bar and the Client Security Fund by the applicable deadline;
- (e) Defendant shall participate fully and timely in the State Bar's fee dispute resolution program when notified of any petitions for resolution of disputed fees; and
- (f) Defendant shall not violate the Rules of Professional Conduct or any state or federal laws other than minor traffic violations during the period of suspension.


9. The Disciplinary Hearing Commission will retain jurisdiction of this matter throughout the suspension and until all of the conditions referenced in paragraph 8 above are satisfied.

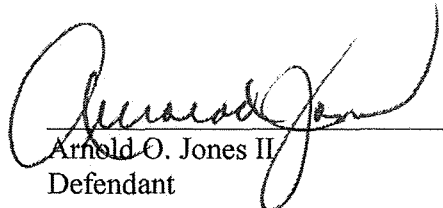
Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

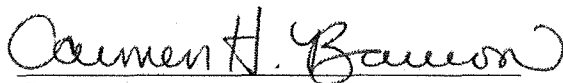
This the 25 day of October, 2018.


Allison C. Tomberlin, Chair
Disciplinary Hearing Panel

Agreed and consented to by:


Alan M. Schneider
Attorney for Defendant


Arnold O. Jones II
Defendant


Carmen Hoyme Bannon
Attorney for Plaintiff