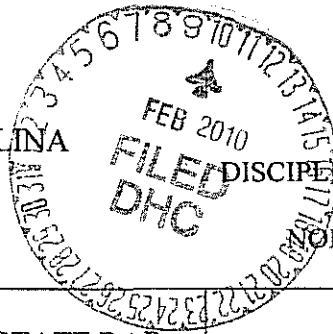


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
03 DHC 12, 10 DHC 9

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MOHAMMED M. SHYLLON, Attorney,

Defendant

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

THIS MATTER came before the hearing panel upon the filing of a compliant by Plaintiff alleging disciplinary violations in 10 DHC 9 and upon Defendant's motion to modify and determine compliance with the conditions of reinstatement in 03 DHC 12. These matters were considered by a hearing panel of the Disciplinary Hearing Commission composed of F. Lane Williamson, Chair, J. Michael Booe and David L. Williams pursuant to 27 N.C.A.C. 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. Defendant, Mohammed M. Shyllon, was represented by Douglas J. Brocker. Defendant has agreed to waive a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this order and to the discipline imposed. Defendant stipulates that he waives any right to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this order.

Based upon the consent of the parties, the hearing panel hereby finds, 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 thereunder.

2. Defendant, Mohammed M. Shyllon ("Defendant" or "Shyllon"), was admitted to the North Carolina State Bar on August 22, 1976. At all times referred to herein, Shyllon was 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 part of the relevant periods referred to herein, Shyllon was engaged in the practice of law in the State of North Carolina and maintained a law office in Raleigh, Wake County, North Carolina.

4. During part of the relevant periods referred to herein, Shyllon was suspended from the active practice of law in the State of North Carolina pursuant to the April 12, 2007 Consent Order of Discipline issued by the Disciplinary Hearing Commission of the North Carolina State Bar ("DHC") in case number 03 DHC 12.

5. In case number 03 DHC 12, the DHC entered a Consent Order of Discipline dated February 28, 2004 (hereinafter "the first Order") suspending Defendant from the active practice of law for one year. The first Order stayed Defendant's one year suspension for a period of three years upon Defendant's compliance with enumerated terms and conditions over the stayed period.

6. In case number 03 DHC 12, the DHC entered another Consent Order of Discipline dated April 12, 2007 (hereinafter "the second Order"), activating Defendant's one-year suspension after concluding that Defendant had failed to comply with two of the terms and conditions of the stayed suspension as set forth in the first Order.

7. Pursuant to the second Order, the active suspension of Defendant's law license went into effect on May 12, 2007. At no time since May 12, 2007 to the date of filing this complaint has Defendant been reinstated to active status.

8. While suspended from the active practice of law in North Carolina, Defendant continued to hold himself out as being able to practice by sending correspondence from his office located at 4002 Barrett Drive, Suite 102A in Raleigh, North Carolina with the heading "The Law Office of Mohammed M. Shyllon, Attorney & Counselor at Law" or "The Law Office of Mohammed M. Shyllon, Attorney at Law" and signing his name "Mohammed M. Shyllon, Esq."

9. After May 12, 2007, Defendant represented or assisted at least the following seven (7) clients in proceedings before the United States Citizenship and Immigration Services ("USCIS"):

- (a) Ebrima Sonko;
- (b) Kokou Degoh;
- (c) Daniel K. Agyei;
- (d) Oumar Sy;
- (e) Elizabeth Ruhui;
- (f) Buba Janneh;
- (g) Athanassious Assichidis.

10. In or around March 2003, prior to his suspension, Defendant was retained by Serah Wambui Mwaura to represent her in an appeal to the United States Board of Immigration Appeals from an order denying her application for asylum.

11. On or about July 7, 2005, the Board of Immigration Appeals upheld the Immigration Judge's denial of asylum.

12. After Ms. Mwaura's appeal was denied, Defendant assisted Ms. Mwaura in completing and filing her Application to Adjust Permanent Resident Status ("Form I-485") with the USCIS.

13. Defendant collected \$600.00 from Ms. Mwaura for the legal services he provided in completing and filing Ms. Mwaura's Form I-485.

14. The Code of Federal Regulations, as set out in 8 C.F.R. § 209.2(a), provides that only individuals who have been granted asylum may apply for an adjustment to permanent resident status via a Form I-485.

15. Because Ms. Mwaura had previously been denied asylum, she was not eligible for an adjustment to permanent status, and therefore her situation was not one of the circumstances for which the Form I-485 was appropriate.

16. On or about April 8, 2008, Ms. Mwaura's Form I-485 application was denied because she was not previously granted asylum, and therefore she was ineligible for an adjustment to permanent resident status as set out in 8 C.F.R. § 209.2(a).

17. Defendant never informed Ms. Mwaura that she was ineligible for an adjustment to permanent resident status.

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, Mohammed M. Shyllon, and the subject matter of this proceeding.

2. Shyllon'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) and 84-28(b)(3) as follows:

- a. By continuing to practice law while his license was suspended, Defendant engaged in the unauthorized practice of law in violation of Rule 5.5(a); and
- b. By failing to inform Ms. Mwaura about her ineligibility for the adjustment to permanent resident status, Defendant failed to explain

a matter to the extent reasonably necessary to permit a client to make an informed decision regarding the representation in violation of Rule 1.4(b).

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's conduct has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows his disregard for his duties as an attorney. 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.

2. As noted above in the Findings of Fact, Defendant's law license was actively suspended pursuant to the second Order effective May 12, 2007. After May 12, 2007, Defendant continued to represent clients in administrative proceedings before the USCIS. Defendant's continuous unauthorized practice of law before the USCIS demonstrates a pattern of misconduct that warrants further discipline.

3. Based upon his unauthorized practice of law before the USCIS, by decision of the Board of Immigration Appeals dated February 11, 2009 Defendant was expelled from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security.

4. Defendant's one-year suspension pursuant to the first Order was activated by the Disciplinary Hearing Commission in the second Order due to Defendant's failure to comply with the conditions of his stayed suspension. Despite his activated suspension, Defendant continued to engage in the practice of law in direct contravention of the Rules and Regulations of the North Carolina State Bar and the Order of the Disciplinary Hearing Commission. Such conduct interferes with the State Bar's ability to regulate its members and undermines the profession's privilege to remain self-regulating. Defendant's inability to comply with the Rules of Professional Conduct as well as the conditions imposed upon him by the Disciplinary Hearing Commission require this panel to impose additional discipline upon Defendant as the only means to adequately acknowledge the wrongfulness of his conduct and protect the public.

5. With regards to Defendant's reinstatement to the active practice of law pursuant to the second Order, Defendant has fully complied with condition 2(b). Defendant has completed 8 ½ hours of CLE-approved law office financial management training courses. Defendant has also participated in six hours of individual training session on law office and trust account management.

6. Defendant has not fully complied with condition 2(a) of the second Order's conditions of reinstatement. However, it is virtually impossible for Defendant to fully comply with condition 2(a) due to the complexity of his trust and operating account

records. Nevertheless, Defendant has made substantial efforts to comply with condition 2(a) of the second Order, to wit: Defendant hired a certified public accountant ("CPA") to conduct an audit of his trust and operating accounts and to bring both accounts within compliance with the Rules of Professional Conduct. The CPA certified that it is not possible to provide a complete audit and reconciliation of Defendant's trust and operating accounts without qualification or reservation as specified in the second Order because certain documentation does not exist or cannot be obtained. The CPA reported that, based upon his extensive but incomplete review of Defendant's trust account, there was no evidence that Defendant took client funds intentionally or without authorization. Furthermore, the CPA reported that their review produced no evidence demonstrating the trust account had at any point been overdrawn. The CPA identified the client funds remaining in the trust account and some remaining unidentifiable funds (approximately \$625.28) that need to be escheated. The CPA certified that, to the extent possible, Defendant's trust and operating accounts are now in compliance with the Rules of Professional Conduct.

7. Defendant has fully cooperated with the State Bar's investigation of his unauthorized practice of law and representation of Ms. Mwaura.

8. Despite his misconduct, Defendant maintains a good reputation in his local legal community.

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.A.C. 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds the following factors are applicable in this matter:

- a. Defendant's prior disciplinary offenses;
- b. Defendant's pattern of misconduct;
- c. Defendant's full and free disclosure to the hearing panel;
- d. Defendant's substantial experience in the practice of law;
- e. Defendant's good character and reputation; and
- f. Imposition of other penalties or sanctions.

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

- a. Defendant's actions potentially had a negative impact on the public's perception of the legal profession; and
  - b. Defendant's multiple instances of failure to participate in the legal profession's self-regulation process.
3. 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 the public regarding the conduct expected of members of the Bar.
4. Based on the above findings, the hearing panel finds and concludes that the public will only be adequately protected by imposing an additional active suspension of Defendant's law license for a set period of time.
5. Based upon Defendant's substantial efforts to comply with condition 2(a) of the second Order noted above, this Panel finds that the public would be adequately protected by modifying the conditions of reinstatement in the second Order as set forth in the Order of Discipline below.

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

#### ORDER OF DISCIPLINE

1. The license of Defendant, Mohammed M. Shyllon, is hereby suspended for eighteen (18) months. This suspension is effective as of the date of this Order.
2. All costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service of the statement of costs by the Secretary.
3. At the conclusion of eighteen (18) months active suspension of his license, Defendant may apply to be reinstated to the practice of law by filing a petition with the Secretary of the North Carolina State Bar demonstrating compliance with the general provisions for reinstatement set forth in 27 N.C.A.C. 1B § .0125(b) and demonstrating the following by clear, cogent, and convincing evidence:
  - a. That he paid the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar within 30 days of notice of the costs being mailed to him at his address of record;
  - b. That he has kept the North Carolina State Bar Membership Department advised of his current business and home address, with post office box addresses being unacceptable;
  - c. That he has responded to all communications from the North Carolina State Bar received after the effective date of this Order within 30

days of receipt or by the deadline stated in the communication, whichever is sooner;

d. That he has not violated the Rules of Professional Conduct or the laws of the United States or any state.

4. If Defendant successfully petitions for reinstatement of his law license pursuant to paragraph 3, Defendant's license shall also be deemed reinstated from the suspension imposed upon his license by Order of the Disciplinary Hearing Commission in case number 03 DHC 12 upon demonstrating by clear, cogent, and convincing evidence his compliance with and agreement to the following conditions:

a. Defendant shall escheat all abandoned funds existing in Defendant's current trust account to the State pursuant to Rule 1.15-2(q) and N.C. Gen. Stat. § 116B-53; and

b. Defendant shall open a new trust account and a new business/operating account at a bank of his choice to operate his law practice out of from this point forward. Defendant shall close and cease all use of his previously used business and trust accounts.

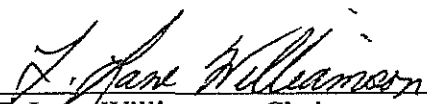
5. If Defendant successfully petitions for reinstatement under paragraphs 3 and 4 above, Defendant's reinstatement to the active practice of law shall be conditionally granted so long as Defendant complies with the following additional condition:

a. For the next three and a half (3.5) years from the date Defendant is reinstated to active practice pursuant to this Order, Defendant shall permit audits of his trust and operating accounts by the North Carolina State Bar. Such audits will be conducted at Defendant's expense, and all costs incurred during the course of the audit shall be paid by Defendant within thirty (30) days of the assessed costs being served upon Defendant. The North Carolina State Bar will not exercise the right to audit the Defendant's bank accounts more than twice a year. Such limitation on random audits will not preclude the North Carolina State Bar from conducting any audits for cause pursuant to the Rules of Professional Conduct. Furthermore, any information or documentation gained by the North Carolina State Bar while conducting said audit(s) may result in further disciplinary proceedings being brought against Defendant.


6. The Disciplinary Hearing Commission will retain jurisdiction of this matter throughout the period of conditional reinstatement to determine Defendant's compliance with the condition listed in paragraph 5(a). Defendant's conditional reinstatement shall be subjected to the same procedures as set out in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. Defendant hereby waives any right to other administrative procedure regarding his conditional reinstatement and consents to his conditional reinstatement being subject to the

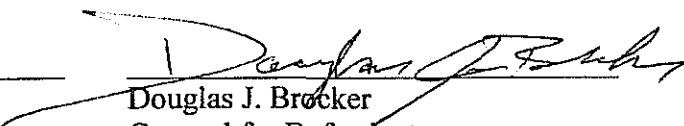
procedural structure of 27 N.C.A.C. 1B § .0114(x). If the Disciplinary Hearing Commission finds, after a hearing, that Defendant is not in compliance with the condition listed in paragraph 5(a), the Disciplinary Hearing Commission shall revoke Defendant's reinstatement to the active practice of law for a period of one (1) year, after which time Defendant may again apply for reinstatement pursuant to paragraphs 3 – 5 above.

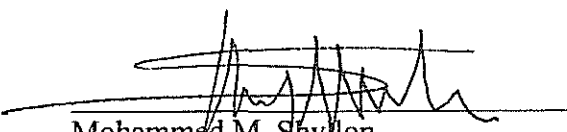
9<sup>th</sup> Signed by the Chair with the consent of the other hearing panel members, this the  
day of February, 2010.

  
F. Lane Williamson, Chair  
Disciplinary Hearing Panel

CONSENTED TO BY:

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

  
Douglas J. Bröcker  
Counsel for Defendant

  
Mohammed M. Shyllon  
Defendant