

DEC 2010  
FILED  
DHC

THE NORTH CAROLINA STATE BAR,

Plaintiff

V.

MARCIA Y. BURTON, Attorney,

Defendant

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Donna R. Rascoe, Chair, Theodore C. Edwards II, and Karen B. Ray. Carmen Hoyme Bannon represented the North Carolina State Bar. Defendant, Marcia Y. Burton, represented herself. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the transfer of Defendant to disability inactive status. Defendant freely and voluntarily waives any right to appeal the entry of this consent order transferring her to disability inactive status.

## FINDINGS OF FACT

2. Defendant, Marcia Y. Burton (hereafter “Defendant” or “Burton”), was admitted to the North Carolina State Bar in 1996 and is 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.

3. Burton's license to practice law was administratively suspended in October 2009 for failure to pay membership dues and failure to satisfy mandatory CLE requirements. Burton's license remains administratively suspended as of the date of this order.

4. During all or part of the relevant periods referred to herein, Burton engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

5. Burton's ability to practice law has been impaired by substance abuse and mood disorder. In 2007, Burton's use of alcohol escalated to the point of abuse and/or dependence, and in December 2007, Burton contacted the Lawyers' Assistance Program (LAP) for help with alcohol-related problems. Soon thereafter, she was diagnosed with alcoholism and depression.

6. In or about March 2008, Burton was admitted to Behavioral Health Center First Step at CMC-Union ("First Step") for approximately three weeks of inpatient treatment for alcohol dependence.

7. After her discharge from First Step, Burton continued to receive outpatient treatment for alcohol dependence from Tammy Bell, LCSW. Burton discontinued outpatient treatment in the spring of 2009 because she no longer had insurance coverage.

8. In April 2008, Burton executed a two year Self-Referral Addiction Contract with LAP.

9. Although Burton has been treated for alcoholism and depression, the treatment she has received to date has been ineffective in that her current use of alcohol and/or her current depression interferes with her ability to effectively practice law.

10. Burton's alcohol dependence is a mental condition that significantly impairs her professional judgment, performance or competence as an attorney.

11. Burton's depressed mood may also be a mental condition that significantly impairs her professional judgment, performance of competence as an attorney.

12. Burton requests and consents to being transferred to disability inactive status.

13. Prior to entering into this consent order, Burton was advised to confer with independent counsel and did consult with attorney Dudley A. Witt.

Based on the foregoing Findings of Fact and the consent of the parties, the hearing panel makes the following

#### CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission, and the Disciplinary Hearing Commission has jurisdiction over Defendant and over the subject matter of this proceeding.

2. Burton is disabled within the meaning of 27 N.C.A.C. 1B § .0103(19) and should be transferred to disability inactive status pursuant to 27 N.C.A.C. 1B § .0118 and N.C. Gen. Stat. § 84-28(g).

3. Disciplinary proceedings in this case should be stayed as long as Burton remains in disability inactive status pursuant to 27 N.C.A.C. 1B § .0118(d)(3). If Burton is returned to active

status by the Commission, the disciplinary proceeding will be rescheduled by the Chair of the Commission.

ORDER

1. Defendant, Marcia Y. Burton, is hereby transferred to disability inactive status in accordance with N.C. Gen. Stat. § 84-28(g) and 27 N.C.A.C. 1B § .0118(b)(6).

2. Burton shall refrain from practicing law in North Carolina until she:

(A) is reinstated to active status by the Commission pursuant to the procedures set forth in 27 N.C.A.C. 1B § .0125(c); and

(B) has satisfied any other outstanding requirements of the State Bar's CLE and Membership departments for reinstatement from her administrative suspension.


3. The disciplinary action filed by Plaintiff is stayed until such time as Defendant is reinstated to active status.

4. The North Carolina State Bar, pursuant to Rule .0118(f), may continue to investigate allegations of misconduct against Defendant, including the taking of whatever depositions it deems necessary to preserve evidence. No further orders from the Disciplinary Hearing Commission shall be necessary to take such depositions.

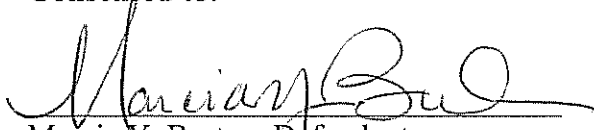
5. The costs of this proceeding are taxed against Defendant and the Secretary of the State Bar shall send a statement of costs to Defendant.

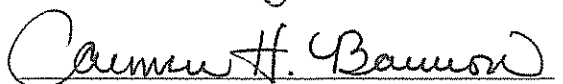
6. This order shall be effective immediately upon entry pursuant to 27 N.C.A.C. 1B § .0118(b)(6).

Signed by the Chair with the consent of the other hearing panel members, this is the 6th day of ~~November~~, 2010.  
December

  
Donna R. Rascoe, Chair  
Disciplinary Hearing Panel

**Consented to:**

  
Marcia Y. Burton, Defendant

  
Carmen Hoyme Bannon, Deputy Counsel