

9870



NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
93 DHC 5

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
vs. )  
LOGAN HOWELL, ATTORNEY )  
Defendant )

CONSENT ORDER OF DISCIPLINE

THIS MATTER, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to Section 14(H) of Art. IX of the Discipline & Disbarment Procedures of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to the discipline imposed, the Hearing Committee therefore enters the following:

FINDINGS OF FACT

1. The 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 promulgated thereunder.
2. The Defendant, Logan Howell, was admitted to the North Carolina State Bar in 1981, 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.
3. During all of the periods referred to herein, Howell was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Raleigh, Wake County, North Carolina.
4. Howell did not file any federal or state income tax

returns for the calendar years 1989, 1990 and 1991.

5. On Feb. 15, 1993, Howell pled guilty to three counts of misdemeanor failure to file state income tax returns for the calendar years 1989, 1990 and 1991.

6. Howell was convicted of the charges set out in paragraph 5 on Feb. 15, 1993 in Wake County District Court.

7. Howell failed to file timely federal income tax returns for the calendar years 1989 - 1991.

8. On or about Feb. 25, 1992, Howell undertook to represent Eric Scott Lail regarding a traffic citation which Lail received in Raleigh on Feb. 6, 1992.

9. The hearing on Lail's citation was continued on several occasions following Feb. 25, 1992 at Howell's request.

10. On June 9, 1992, Howell appeared in Wake County District Court regarding Lail's citation, which had been calendared for that date. The court file regarding Lail's citation had been mislaid by court personnel, however, and Lail's case was not heard or resolved that day.

11. Thereafter, Lail's case was calendared for hearing on July 10, 1992. Howell was unaware that the case had been set for hearing on July 10, 1992 and did not appear in court on Lail's behalf on that date.

12. On Aug. 26, 1992, the Department of Motor Vehicles (DMV) issued a notice suspending Lail's driver's license effective Oct. 25, 1992, as neither Lail nor Howell had appeared in court on July 10, 1992.

13. On Aug. 28, 1992, Lail's mother, Carolyn Eller, notified Howell of the DMV revocation notice.

14. Howell promised to assist Eller and Lail regarding the revocation of Lail's license by the DMV.

15. Howell failed to take effective steps to assist Eller and Lail regarding the revocation of Lail's license by the DMV, despite his promise to do so.

16. Howell did not communicate adequately with Lail or Eller about the traffic citation matter.

17. Eller paid Howell a fee of \$200, plus \$55 in costs on or about Feb. 25, 1992 to represent Lail regarding the traffic citation.

18. Howell failed to place the \$55 in costs which Eller had paid him on Lail's behalf in a trust account. Howell placed the \$55 in an envelope which he kept in a file folder locked in his desk drawer. The money was kept separate and apart at all times from Howell's personal funds. There is no evidence that the costs were misused by Howell and Howell refunded the \$55 to Eller in May 1993.

19. Howell received an admonition from the Grievance Committee of the N.C. State Bar in 1992. The admonition found that Howell had violated Rule 10.2(E) by failing to disburse funds to a client promptly, that he violated Rules 10.2(C) and 10.2(D) by failing to keep complete trust account records and failing to reconcile his trust account records quarterly and that he had inadvertently used client funds on one occasion for a personal obligation.

20. On June 21, 1993, the Chair of the Disciplinary Hearing Commission entered an order suspending Howell's license on an interim basis pursuant to Section 15 of the Discipline & Disbarment Procedures of the N.C. State Bar. The interim suspension order was based upon Howell's conviction of the tax offenses set out in paragraphs 5 and 6 herein and went into effect on July 21, 1993.

#### CONCLUSIONS OF LAW

1. By failing to file timely state and federal income tax returns for 1989, 1990 and 1991, Howell engaged in conduct involving dishonesty in violation of Rule 1.2(C) and committed criminal acts which reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 1.2(B) of the Rules of Professional Conduct.

2. By failing to take effective steps to assist Lail after the Department of Motor Vehicles issued the notice indicating that Lail's license would be revoked for his failure to appear in court on July 10, 1992, Howell neglected a legal matter in violation of Rule 6(B)(3) of the Rules of Professional Conduct.

3. By failing to communicate adequately with Lail or Eller regarding the citation matter, Howell failed to keep his client reasonably informed about the status of a matter, in violation of Rule 6(B)(1) of the Rules of Professional Conduct.

4. By failing to place the \$55 in costs which he was holding for Lail in a trust account, Howell failed to place funds of a client held in a fiduciary capacity in a trust account, in violation of Rule 10.1(C) of the Rules of Professional Conduct.

Based upon the consent of the parties and the foregoing Findings of Fact and Conclusions of Law, the Committee hereby enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Logan Howell, is hereby suspended from the practice of law for two years, with all but six months of the suspension stayed for two years on the following conditions:

- a. The Defendant shall comply with any treatment or therapy program or plan recommended by his psychologist, Adam Adams or his successor counselor, and shall submit written reports signed by Mr. Adams or his successor counselor, to the Counsel of the N.C. State Bar each quarter throughout the two year stay period, confirming that the Defendant has complied with the treatment or therapy plan. The quarterly reports shall be received in the Office of the Counsel on the following dates: Oct. 1, Jan. 1, April 1 and July 1 throughout the stay period.

If the Defendant completes the course of recommended therapy or treatment before the end of the two year stay period, he shall provide a written report to the Counsel of the N.C. State Bar signed by Mr. Adams or his successor counselor confirming that such treatment has been successfully completed.

- b. The Defendant shall violate no laws and no provisions of the Rules of Professional Conduct.
- c. The Defendant shall complete and file all state and federal tax returns within 60 days from the date of this order and pay all taxes due on that date.

2. The six-month active suspension of the Defendant's license shall run retroactively to July 21, 1993, the effective date of the interim order of suspension of the Defendant's law license. The remaining provisions of this order shall be deemed to be in effect as of the date of this order.

3. The Defendant shall pay the costs of this proceeding no later than the end of the two year stay period.

This the 20 day of August, 1993.

W. Harold Mitchell  
W. Harold Mitchell, Chairman  
Disciplinary Hearing Committee

Richard L. Doughton  
Richard L. Doughton  
Disciplinary Hearing Committee

I dissent:

Frank L. Boushee  
Frank L. Boushee  
Disciplinary Hearing Committee

Seen and consented to:

G. Bryan Collins  
G. Bryan Collins  
Attorney for Defendant

Carolin Bakewell  
Carolin Bakewell  
Attorney for Plaintiff

Logan Howell 9/24/93  
Logan Howell, Defendant

00137