

referred to the 12th District Bar's Grievance Committee for investigation.

5. By letter dated November 30, 1992, Philip R. Cheatwood, Chairman of the 12th District Bar's Grievance Committee, sent Miller a copy of the grievance, advised him that Ronald E. Winfrey would be investigating the Burns grievance, and directing Miller to file a written response to the grievance before December 28, 1992.

6. By letter dated December 1, 1992, Miller asked for additional time to respond and asked for a copy of Burns's letter of complaint.

7. A copy of Burns's letter of complaint was sent to Miller.

8. By letter dated December 23, 1992, Winfrey agreed to give Miller until the end of January to respond to the grievance.

9. Miller did not respond to the grievance or direct any other communication to Winfrey or Cheatwood by the end of January, 1993.

10. On February 12, 1993, Winfrey wrote to Miller seeking a written response to the Burns grievance, or some reason why he could not respond, by February 19, 1993.

11. Winfrey did not receive a response from Miller.

12. Richard L. Davis, Sr. (hereinafter Davis), an employee of Healy Wholesale Distributing Company, injured himself on his job on April 10, 1989. Davis employed Miller to represent him in a workers compensation claim as a result of the job related accident.

13. An Industrial Commission (hereinafter commission) hearing was held in the matter on November 8, 1990. After the hearing, deputy commissioner Tamera R. Nance (hereinafter Nance) issued a November 14, 1990 order allowing the parties 60 days to complete the record in the case. The order indicated that the parties intended to take the depositions of Dr. Wadon, Dr. Atassi and Dr. Kouba.

14. By letter dated December 13, 1990, Miller requested additional time to complete the medical depositions in Davis's case. By order filed December 19, 1990, Nance extended the time for completing the medical depositions an additional 30 days.

15. After not receiving anything further from Miller, Nance wrote Miller on July 23, 1991 seeking a response within 10 days.

16. Miller responded to Nance's letter in August, 1991 explaining that the depositions of Dr. Wadon and Dr. Atassi had been postponed due to scheduling conflicts, but indicating that

they were scheduled to be taken on the afternoon of August 15, 1991.

17. The depositions of Dr. Wadon and Dr. Atassi were completed on August 15, 1991 and forwarded to the commission.

18. Nance wrote to both counsel in the case on January 10, 1992 and indicated that the record in the case would be closed on January 31, 1992. Any further medical evidence was to be filed prior to that date.

19. In late 1991 and early in 1992, Davis made numerous efforts to contact Miller seeking information about the status of his case. Miller did not return Davis's calls, but did give Davis a copy of his file.

20. Nance entered an order on February 12, 1992 closing the record. The parties were each given 20 days to file written contentions and a proposed opinion and award in the case.

21. Miller did not file any written contentions on his client's behalf and did not file a proposed opinion and award.

22. On June 2, 1992, Nance filed an opinion and award in the Davis case denying Davis additional compensation for his failure to present sufficient medical evidence to establish that the cause of his current medical problems were causally related to his April 10, 1989 accident or that he had suffered any further disability as a result of the accident.

23. On June 17, 1992, Miller filed a notice of appeal on Davis's behalf appealing Nance's opinion and award to the full commission.

24. By letter dated June 26, 1992, the docket director of the commission acknowledged receipt of Miller's notice of appeal to the full commission and notified him that he would have to file a form 44 assigning errors made by the deputy commissioner within 25 days of receipt of a copy of the transcript of the proceeding.

25. Miller received the transcript and a blank form 44 for him to fill out from the commission on or about July 15, 1992.

26. The commission did not have a completed form 44 or a brief from Miller in the Davis file within apt time.

27. Since he had not received a copy of a form 44 or a brief from Miller or the commission, the attorney for the defendants in the Davis case filed a motion to dismiss the appeal to the full commission on August 31, 1992.

28. Despite being contacted by commission staff to prompt a response from him, Miller did not respond to the motion to

dismiss the appeal.

29. By order filed October 26, 1992, Davis's appeal was dismissed by James J. Booker (hereinafter Booker), chairman of the commission.

30. After not being able to get in touch with Miller, Davis wrote to Booker and asked that he be allowed an appeal in spite of his attorney's failure to take timely action.

31. By order filed February 23, 1993, Booker allowed Davis's appeal of the order of dismissal to the full commission. That order directed Miller to appear at the full commission hearing of Davis's appeal when it was scheduled.

32. After a request by Davis, Booker filed a March 8, 1993 order removing Miller as counsel for Davis. That order again required Miller to be present at the full commission's hearing of the Davis appeal.

33. On April 29, 1993, a panel of commissioners considered Davis' appeal of the order of dismissal. Following that hearing, a separate panel of commissioners questioned Miller about his conduct in handling the Davis appeal. Miller produced for the commissioners and others present a copy of an August 9, 1992 cover letter properly addressed to the docketing office of the commission and purportedly enclosing a form 44 and brief for filing on Davis's behalf. Counsel for the defendants had not received copies of those documents prior to April 29, 1993. Those documents also had not been a part of the commission's files prior to April 29, 1993.

34. Miller stated to those present at the second hearing that he had sent the commission the form 44 and brief with the cover letter dated August 9, 1992. Miller produced copies of those documents at that hearing.

35. By order filed June 24, 1993, the full commission affirmed the dismissal of the Davis appeal due to Miller's failure to file the form 44 in apt time.

36. On or about November 23, 1992, Davis filed a grievance against Miller with the North Carolina State Bar which was referred to the 12th Judicial District Bar for investigation.

37. By letter dated January 12, 1993, Dougald N. Clark, Jr. (hereinafter Clark), Chairman of the 12th District Bar's Grievance Committee, sent Miller a copy of the grievance allegations, advised him that Richard T. Craven (hereinafter Craven) would be investigating the Davis grievance, and directing Miller to file a written response to the grievance before February 12, 1993.

38. Despite a number of requests by Clark and Craven, Miller

did not respond to the grievance or direct any communication to Clark or Craven prior to December 2, 1993. In a December 2, 1993 letter delivered to Clark, Miller advised that he had provided Craven with a detailed response to the Davis grievance on that date.

39. Miller did not provide Craven with a response to the Davis grievance on that date or at any subsequent date.

40. On or about June 9, 1992, Dave Burgess (hereinafter Burgess), General Manager of Remtec Systems (hereinafter Remtec), a company located in Gardena, California, employed Miller to collect \$8,532.15 allegedly owed to Remtec by Mr. John Belch (hereinafter Belch) and his companies.

41. Burgess paid Miller a \$400.00 retainer fee.

42. On or about July 1, 1992, Miller filed a complaint in Cumberland County District Court on behalf of Remtec against Belch and his companies, being file number 92 CVD 3859.

43. Soon thereafter, Miller advised Burgess that service had been perfected upon Belch on July 3, 1992.

44. After being advised that service had been perfected on the defendants in the civil action, Burgess made approximately 15 telephone calls to Miller's office seeking a status update. On most of those occasions, Burgess got an answering machine and left a message for Miller to return his calls. On at least 4 occasions, Burgess talked to a person identifying herself as Tammy. Tammy would advise Burgess to call back in ten minutes when Miller would be available or would advise Burgess that she would give Miller a message and that Miller would return Burgess's calls.

45. Miller did not return Burgess's calls.

46. On December 17, 1992, the civil action Miller had filed on behalf of Remtec against Belch and his companies, file number 92 CVD 3859, was dismissed by the presiding judge in the district court for Miller's failure to certify to the court that he had served the defendants before the time for service expired.

47. Although Miller was sent a copy of the dismissal by the court, Miller did not advise Burgess that the dismissal had been taken.

48. After finding out from the clerk's office in February, 1993 that the dismissal had been ordered, Burgess requested from Miller that his retainer be refunded and that his file be returned.

49. Miller did not respond to Burgess's requests.

50. On March 22, 1994, Miller filed a certificate of service with the clerk demonstrating that Belch and his businesses had been served with the summons and complaint in 92 CVD 3859 on July 3, 1992. Upon motion of Miller, Judge A. Elizabeth Keever entered an order striking the order of dismissal dated December 17, 1992 and affording the defendants a period of sixty (60) days to file answer in the action.

51. On or about March 9, 1993, Burgess filed a grievance against Miller with the North Carolina State Bar which was referred to the 12th Judicial District Bar for investigation.

52. By letter dated July 12, 1993, Clark, as Chairman of the 12th District Bar's Grievance Committee, sent Miller a copy of the grievance allegations, advised him that Winfrey would be investigating the Burgess grievance, and directing Miller to file a written response to the grievance before August 12, 1993.

53. Miller did not respond to the grievance or direct any communication to Clark or Winfrey prior to December 2, 1993. In the December 2, 1993 letter delivered to Clark, Miller advised that he had provided Winfrey with a detailed response to the Burgess grievance on that date.

54. Miller did not provide Winfrey with a response to the Burgess grievance on that date or at any subsequent date.

55. On September 1, 1992, Richard Woolard (hereinafter Woolard) employed Miller to represent him on a DWI case pending in Cumberland County District Court. Miller quoted Woolard a fee of \$400.00 for his representation.

56. Woolard paid Miller \$100.00 of his fee on September 1, 1992.

57. Woolard received a letter from Miller on about September 30, 1992 notifying him of the scheduled court date of October 19, 1992.

58. Woolard called Miller to find out what he needed to bring with him to court. Woolard was advised by Tammy in Miller's office that Miller was going to get the case continued to give Woolard time to pay Miller the remainder of his fee. Tammy advised Woolard that he did not need to appear and that Miller would advise him of his new court date.

59. Woolard paid Miller \$200.00 on October 7, 1992.

60. Woolard paid Miller the remaining \$100.00 of his fee on November 17, 1992.

61. Woolard never was advised by Miller of a new court date.

62. Miller did not get Woolard's case continued on October

19, 1992. Woolard was called and failed on that date.

63. On December 17, 1992, Woolard contacted Miller's secretary and advised her of his new address in Maryland.

64. In January, 1993 Woolard was notified by the Department of Motor Vehicles (DMV) that his license would be suspended effective March 8, 1993 due to his failure to appear in court in Cumberland County.

65. Woolard called Miller after getting the DMV letter and left a message on his answering machine indicating the nature of his call and asking that Miller return his call.

66. Miller did not return Woolard's call.

67. Woolard left another message on Miller's answering machine on February 8, 1993 seeking to have Miller return his call before his license suspension went into effect.

68. Miller did not respond.

69. Woolard left similar messages with Miller on February 10, 1993 and February 16, 1993 with no response from Miller.

70. On February 17, 1993 Woolard reached Miller's secretary. She indicated that she would check on the matter and get back with Woolard.

71. On February 19, 1993, Miller's secretary called and informed Woolard that a new court date had been set for March 15, 1993 and that his driving privileges would be in effect until that date. She further advised that she was sending a waiver of appearance form for Woolard to execute and return to Miller.

72. On February 25, 1993, Woolard received the waiver of appearance form, executed it, and returned it to Miller.

73. On March 16, 1993, Woolard called Miller to determine the outcome of his case. Woolard left a message on Miller's answering machine seeking a response from Miller.

74. After leaving the message with Miller, Woolard called the Cumberland County Courthouse and was advised that Miller did not appear for him on March 15, 1993.

75. Because Miller did not appear for Woolard on March 15, 1993, Woolard was again called and failed.

76. Woolard again called Miller and left a message that it was urgent for Miller to return his call. Woolard called and left similar messages on March 19, 1993, March 24, 1993, and April 8, 1993.

77. Miller did not respond to any of Woolard's messages.

78. Woolard subsequently retained attorney Larry J. McGlothlin to represent him on the DWI charge in Cumberland County District Court. Miller paid the \$400.00 he had received in fee from Woolard to McGlothlin. McGlothlin disposed of the Woolard DWI case on January 20, 1994.

79. On or about May 7, 1993, Woolard filed a grievance against Miller with the North Carolina State Bar which was referred to the 12th Judicial District Bar for investigation.

80. By letter dated August 11 1993, Clark, as Chairman of the 12th District Bar's Grievance Committee, sent Miller a copy of the grievance allegations, advised him that Rebecca Person (hereinafter Person) would be investigating the Woolard grievance, and directing Miller to file a written response to the grievance before September 11, 1993.

81. Miller did not respond to the grievance or direct any communication to Clark or Person prior to December 2, 1993.

82. On or about June 21, 1993, J. L. Morgan filed a grievance against Miller with the North Carolina State Bar which was referred to the 12th Judicial District Bar for investigation.

83. By letter dated July 12, 1993, Clark, as Chairman of the 12th District Bar's Grievance Committee, sent Miller a copy of the grievance allegations, advised him that Winfrey would be investigating the Morgan grievance, and directing Miller to file a written response to the grievance before August 12, 1993.

84. Miller did not respond to the grievance or direct any communication to Clark or Winfrey prior to December 2, 1993. Miller did respond in full to the Morgan grievance on December 2, 1993. As a result, the 12th District Bar's Grievance Committee recommended a finding of "no probable cause" in the underlying Morgan grievance.

85. A complaint was filed against Miller in the Disciplinary Hearing Commission (hereinafter DHC) on or about August 25, 1993, being designated as 93 DHC 22.

86. After being served, Miller filed a Request for Extension of Time to Answer & File Other Responsive Pleadings on September 22, 1993.

87. By order filed September 27, 1993, the then Chair of the hearing committee, W. Harold Mitchell, granted Miller an extension of time until October 10, 1993 to file a responsive pleading.

88. On October 15, 1993, Miller filed Defendant's Second Request for Extension of Time to Answer & File Other Responsive

Pleadings, dated October 10, 1993, which requested an extension until November 1, 1993 to file a responsive pleading.

89. By order dated October 29, 1993, filed November 1, 1993, Miller was granted an extension of time to file responsive pleadings until 5:00 p.m. on November 1, 1993.

90. The clerk of the DHC did not receive an answer from Miller by November 1, 1993, nor did she receive one mailed on that date.

91. The case was scheduled to be heard in the DHC on November 30, 1993.

92. In his October 15, 1993 motion, Miller had asked that the hearing be continued.

93. In the order dated October 29, 1993, Miller's request to continue the hearing was denied.

94. On the morning of November 30, 1993, after being contacted on the previous day by a representative of the North Carolina State Bar, Miller faxed a cover letter dated November 29, 1993 indicating that he had dispatched his answer to the complaint in 93 DHC 22 to the clerk of the DHC at the beginning of the month. A copy of a November 1, 1993 cover letter, properly addressed, purportedly transmitting five copies of his answer to the clerk of the DHC was included with the fax transmission. A copy of his answer, without attachments, was also included in that fax transmission.

95. Other than the copy that was faxed, no answer was received by the clerk of the DHC.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

The conduct of the Defendant, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that Defendant's conduct violates the N. C. Rules of Professional Conduct as follows:

- (a) By failing to communicate with his client, Davis, when Davis was attempting to ascertain the status of his matter, Miller failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1).
- (b) By failing to file written contentions or a proposed opinion and award on behalf of his client, Davis, prior to Nance's June 2, 1992 order being

filed, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1); failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A)(2); and prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3).

- (c) By failing to respond to the defendants' motion to dismiss in Davis's case, even after being prompted to do so by commission staff, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1); failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A)(2); and prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3).
- (d) By failing to respond to the 12th Judicial District Bar's Grievance Committee's Chairman's directives to respond to the Davis grievance, Miller knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).
- (e) By stating in his December 2, 1993 letter delivered to Clark that he had delivered a detailed response to the Davis grievance to Craven when he had not done so, Miller engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) and knowingly made a false statement of law or fact in violation of Rule 7.2(A)(4).
- (f) By failing to communicate with his client, Burgess, when Burgess was attempting to ascertain the status of his matter, Miller failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1).
- (g) By failing to return to Burgess the file material Burgess had sent to him, Miller violated Rule 2.8(A)(2).
- (h) By failing to respond to the 12th Judicial District

Bar's Grievance Committee's Chairman's directives to respond to the Burgess grievance, Miller knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).

- (i) By stating in his December 2, 1993 letter delivered to Clark that he had delivered a detailed response to the Burgess grievance to Winfrey when he had not done so, Miller engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 1.2(C) and knowingly made a false statement of law or fact in violation of Rule 7.2(A)(4).
- (j) By failing to appear in Cumberland County District Court on Woolard's behalf on October 19, 1992 and March 15, 1993, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1); failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A)(2); and prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3).
- (k) By failing to communicate with his client, Woolard, when Woolard was attempting to ascertain the status of his matter, Miller failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1).
- (l) By failing to respond to the 12th Judicial District Bar's Grievance Committee's Chairman's directives to respond to the Woolard grievance in apt time, Miller knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).
- (m) By failing to respond to the 12th Judicial District Bar's Grievance Committee's Chairman's directives to respond to the Morgan grievance in apt time, Miller knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).
- (n) No other violations alleged in the Complaints in 93 DHC 22 and 94 DHC 2 were proven by clear, cogent and convincing evidence.

Signed by the undersigned Chairman with the full knowledge
and consent of the other members of the hearing committee this
the 25th day of May, 1994.

Maureen D. Murray
Maureen D. Murray
Chair
Hearing Committee

4. Miller, while still in private practice, failed to file a brief for Donald Gilliard after being appointed to perfect an appeal of Gilliard's conviction in Cumberland County Superior Court, file number 91 CRS 11338.

5. Gilliard's appeal is currently being pursued by the 12th Judicial District Public Defender's Office.

6. Miller, while still in private practice, failed to file a brief for Curtis Smith after being appointed to perfect an appeal of Smith's conviction in Cumberland County Superior Court, file number 90 CRS 47583.

7. Curtis Smith's appeal is currently being pursued by the 12th Judicial District Public Defender's Office.

8. Miller failed to file North Carolina income tax returns for tax years 1990, 1991, and 1992.

9. On or about April 15, 1994, Miller was charged in Wake County, file numbers 94 CR 25063/64/ & 65, with three misdemeanor counts of willful failure to file North Carolina income tax returns for tax years 1990, 1991, and 1992.

10. Although the criminal charges have not yet come to trial, Miller, for the purpose of this hearing, admits his guilt and accepts responsibility for the three misdemeanor criminal charges.

BASED UPON the foregoing findings of fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

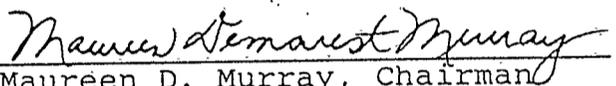
The conduct of the Defendant, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that Defendant's conduct violates the N. C. Rules of Professional Conduct as follows:

- (a) By failing to perfect Alfredo Smith, Jr.'s appeal, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1).
- (b) By failing to file a brief for Gilliard's appeal, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1).
- (c) By failing to file a brief for Curtis Smith's

appeal, Miller failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(A)(1).

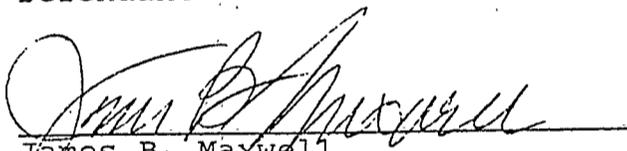
- (d) By failing to file North Carolina income tax returns for calendar years 1990, 1991, and 1992, Miller committed criminal acts that reflect adversely on his honesty, trustworthiness, and fitness as a lawyer in other respects in violation of Rule 1.2(B) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(C).

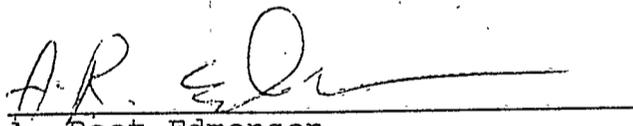
Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee, this the 25th day of May, 1994.


Maureen D. Murray, Chairman
Hearing Committee

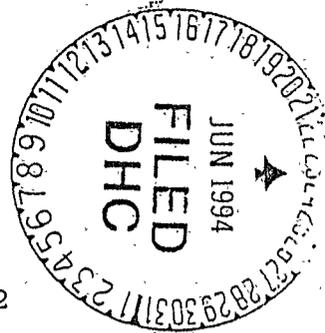
Consented to:


Richard M. Miller
Defendant


James B. Maxwell
Counsel for Defendant


A. Root Edmonson
Deputy Counsel
North Carolina State Bar

BEFORE THE DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR



STATE OF NORTH CAROLINA : CASE NO. 93 DHC 22
: CASE NO. 94 DHC 2
COUNTY OF WAKE :
: THE NORTH CAROLINA STATE BAR :
: Plaintiff :
: vs. : ORDER OF DISCIPLINE
: RICHARD M. MILLER :
: Defendant :

BASED UPON the Findings of Fact and Conclusions of Law and the Additional Findings of Fact and Conclusions of Law, each dated May 25, 1994, and further based upon the evidence and arguments presented at the May 25, 1994 hearing held to determine the discipline to be imposed in this matter, the hearing committee, composed of Maureen Demarest Murray, Chair; Stephen T. Smith, and William H. White, makes the following additional findings:

AGGRAVATING FACTORS

1. Dishonest or selfish motive;
2. A pattern of misconduct;
3. Multiple offenses;
4. Substantial experience in the practice of law;
5. False statements or other deceptive practices during the disciplinary process.

MITIGATING FACTORS

1. Absence of prior disciplinary record;
2. Personal or emotional problems;
3. Defendant sought treatment for a mental disability or impairment just prior to the March 24, 1994 hearing and continued that treatment during the entire period of time up to the May 25, 1994 hearing.

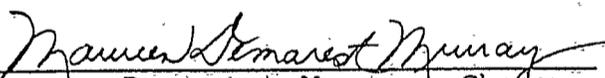
BASED UPON all the factors listed above, the hearing committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, Richard M. Miller, is suspended from the practice of law in North Carolina for a period of five years.
2. As much as one year of the five year suspension may be stayed upon the following conditions:
 - a. Miller may apply for a stay by addressing a verified petition to the Secretary which shall conform as closely as possible to the requirements of a petition for reinstatement after suspension of license pursuant to Sec. 25(B)(3) of Article IX of the Rules and Regulations of the North Carolina State Bar.
 - b. In addition to the requirements of Sec. 25(B)(3), Miller shall have filed federal and state income tax returns for each of the years of his active suspension and paid all taxes due the Internal Revenue Service and the N.C. Department of Revenue and this shall be averred in his petition.
 - c. Miller shall also have taken at least the minimum number of Continuing Legal Education hours required of North Carolina attorneys during each of the years of his active suspension and this shall be averred in his petition.
 - d. The petition for stay shall be handled by the North Carolina State Bar and the petitioner pursuant to the procedure described in paragraph 3 below.
 - e. Prior to petitioning for the stay, Miller must pay the costs of this proceeding.
3. Miller's petition for stay or reinstatement may be filed as early as six months prior to the date he is eligible for the stay or reinstatement to allow for the hearing process to be completed prior to the date he is eligible to have his license returned to him. The Chair of the Disciplinary Hearing Commission will appoint a hearing committee to consider the petition within fourteen days of the Chair's receipt of the petition. The hearing will be scheduled between 60-120 days after receipt of the petition. If the hearing committee decides that Miller's license should be

reinstated, the reinstatement will be effective either at the end of the four year active suspension or the date of the hearing committee's decision, whichever is later.

4. As a condition precedent to Miller's reinstatement, either by petition for stay or by petition for reinstatement after the entire five year suspension has terminated, Miller must prove to a hearing committee of the Disciplinary Hearing Commission, by clear, cogent and convincing evidence, that he is mentally and emotionally fit to practice law and active suspension of his license is no longer necessary to protect the public, courts and legal profession after taking into account the following:
 - a. The gravity and multiplicity of the offenses admitted or proven in the original discipline actions against Mr. Miller;
 - b. Whether and how Miller has addressed his mental state and emotional problems;
 - c. Whether and how Miller has demonstrated by his actions, activities and undertakings during the time of his active suspension that the offenses admitted or proven in the original discipline actions will not reoccur; and
 - d. All other conditions imposed by the order of discipline or Section 25(B) of the discipline and disbarment procedures of the North Carolina State Bar have been satisfied
5. The Defendant is taxed with the costs of this hearing as assessed by the Secretary.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the hearing committee this the 22nd day of June, 1994.


Maureen Demarest Murray, Chair
Hearing Committee and
The Disciplinary Hearing Commission