

NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
NORTH CAROLINA STATE BAR  
95 DHC 21

THE NORTH CAROLINA STATE BAR, )  
)  
Plaintiff )  
)  
v. )  
)  
MARGARET A. KUSENBERG, )  
Attorney )  
)  
Defendant )

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

This cause came on to be heard and was heard on February 9, 1996 before a hearing committee composed of Henry C. Babb Jr., chairman; Stephen T. Smith, and James Lee Burney. The North Carolina State Bar was represented by Fern E. Gunn. The defendant, Margaret A. Kusenberg, appeared pro se. Based upon the admissions of the defendant due to her failure to answer the complaint in this action, the defendant's admissions at the hearing, and the evidence presented at the hearing, the hearing committee finds the following to be supported by clear, cogent, and convincing evidence:

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, Margaret A. Kusenberg, was admitted to the North Carolina State Bar in 1986, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules regulationsn, 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, the defendant was engaged in the practice of law in North Carolina and maintained a law office in Durham, North Carolina.
4. On May 19, 1995, defendant was arrested for possession of cocaine and possession of drug paraphernalia.

5. On July 28, 1995, defendant entered a plea of guilty to N.C. Gen. Stat. Section 90-113.10 of the North Carolina Toxic Vapors Act, a misdemeanor. The State took a voluntary dismissal of the possession of drug paraphernalia charge.

6. Defendant was given a 45-day jail sentence which was suspended. She was placed on supervised probation for 18 months with certain special conditions.

7. The criminal offense for which defendant was convicted is a serious crime as defined in section .0103(40) of the Discipline and Disability Rules of the North Carolina State Bar

8. Prior to her arrest on the above referenced charges, defendant sought assistance from the Positive Action for Lawyers (PALS) Committee of the North Carolina State Bar.

9. She received in-patient treatment at a facility for 28 days in June 1995 and after-care treatment for approximately six weeks.

10. Defendant is not presently receiving counseling for her drug problem, but she does attend Narcotics Anonymous meetings weekly.

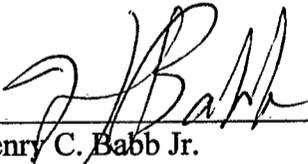
11. Defendant has not satisfactorily completed the PALS Committee's monitoring as of the date of the hearing.

Based upon the foregoing Findings of Fact, the hearing committee makes the following :

#### CONCLUSIONS OF LAW

The offense of which defendant was convicted is a criminal offense which reflects adversely on her honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(b) of the Rules of Professional Conduct.

Signed by the undersigned chairman with the full knowledge and consent of the other members of the hearing committee, this the 6<sup>th</sup> day of March, 1996.

  
\_\_\_\_\_  
Henry C. Babb Jr.  
Chairman

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Defendant )

ORDER OF DISCIPLINE

With the consent of the defendant stated for the record upon the hearing of this cause, the hearing committee makes the following additional finding of fact:

Defendant consents to the effective date of this order of discipline as the date of the hearing; i.e., February 9, 1996.

Based upon the Findings of Fact, including the additional finding of fact herein above set out and the Conclusions of Law, the hearing committee enters the following:

ORDER OF DISCIPLINE

The license to practice law of the defendant, Margaret A. Kusenberg, is suspended for a period of three (3) consecutive years upon the following terms and conditions:

1. The suspension shall be effective as of February 9, 1996, and shall continue thereafter for a period of not less than twelve (12) consecutive months.
2. The suspension may thereafter be stayed and the defendant's license to practice law reinstated upon the compliance of the defendant with the following terms:
  - a. The defendant shall demonstrate (as hereinafter provided) her

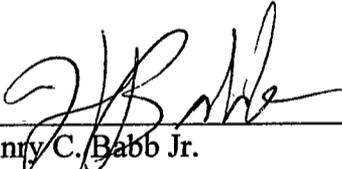
abstinence from the use of alcohol and other controlled substances (other than those lawfully prescribed and lawfully used) for a period of six (6) consecutive months immediately preceding any order staying the suspension.

- b. Defendant shall demonstrate such abstinence by means of drug urinalysis testing results administered by any certified substance abuse counselor or agency approved by the North Carolina State Bar's Office of Counsel.
- c. Defendant shall not have violated any federal or state law.
- d. Defendant shall not have violated any provisions of the Rules of Professional Conduct of the North Carolina State Bar.
- e. Defendant shall pay all costs incurred during this proceeding and taxed against the defendant.

3. Upon the entry of an order staying this suspension and the reinstatement of the defendant's license to practice law, such order of stayed suspension may continue in force for the balance of the term of suspension upon compliance of the defendant with the following conditions:

- a. Defendant shall violate no federal or state laws.
- b. Defendant shall violate no provisions of the Rules of Professional Conduct of the North Carolina State Bar.

Signed by the undersigned chairman with the full knowledge and consent of the other members of the hearing committee, this the 6 day of March, 1996.

  
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Henry C. Babb Jr.  
Chairman