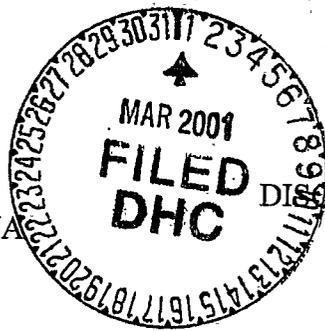


WAKE COUNTY
NORTH CAROLINA



3870

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
DHC 28

THE NORTH CAROLINA STATE BAR)
Plaintiff)

v.)

ARCHIBALD H. SCALES III, ATTORNEY)
Defendant)

CONSENT ORDER

THIS MATTER came on to be heard and was heard before a hearing committee of the Disciplinary Hearing Commission composed of Joseph G. Maddrey, Chair; Jean G. Hauser and Elizabeth Bunting. The defendant, Archibald H. Scales III, was represented by George Cleland III. Carolin Bakewell represented the Plaintiff.

Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the order entered herein. The defendant waives his right to a formal hearing and agrees to the entry of this order by consent. Based upon the consent of the parties, the hearing committee hereby 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, Archibald H. Scales III (hereafter, Scales), was admitted to the North Carolina State Bar in 1966 and is and was at all times referred to herein, an attorney at law licensed to practice law 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 or a portion of the relevant periods referred to herein, Scales was engaged in the practice of law in the State of North Carolina and maintained an office for the practice of law in the City of Winston-Salem, Forsyth County.

4. Scales has knowingly and voluntarily waived his right to a formal hearing herein.

5. Scales was properly served with process and is subject to the jurisdiction of the Disciplinary Hearing Commission.

6. Scales has waived a finding of probable cause by the Grievance Committee of the N.C. State Bar regarding those matters set out in file numbers State Bar file 99G 1543 (involving the estate of Benjamin French); 9921GR001 (involving the estate of Betty and Paul Sills); and 99G 739 (estate of Richard E. Scales).

7. Scales has been suffering from depression for some time and more recently, has experienced a significant grief reaction following the death of his mother on July 14, 2000 following a long illness and the deaths of his brother and father. Scales' father died in 1996 following a lengthy and progressively degenerative illness and his only sibling, a brother, died in 1997.

8. Scales failed to file timely annual accountings in the French, Scales and Sills estates and failed to respond in a timely fashion to the N.C. State Bar's inquiries about the estates. The Scales estate was the estate of Scales' brother. There was no evidence that Scales mishandled funds or property belonging to any estate. Scales' tardiness in

resolving the estates and in responding to the N.C. State Bar was the result of his depression and the fact that much of his time from 1997 through the summer of 2000 was devoted to the care of his terminally ill mother.

9. Scales has received some treatment for depression.

10. Scales has relocated his law office to his home, where he has confined his practice to real estate, social security, military matters and estate planning. He has agreed to continue to limit his practice to these matters.

11. Scales has agreed to consult a psychiatrist in the Forsyth County area approved by the N.C. State Bar for further evaluation for depression and to determine if Scales is suffering from any other disorder, including substance abuse, and has consented to follow the treatment plan, if any, recommended by the psychiatrist.

Based upon the foregoing findings and the consent of the parties, the hearing committee hereby makes the following

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the defendant and the subject matter.
2. Scales' conduct in failing to file timely accountings in the French, Sills and Scales estates violated Rule 1.3 of the Revised Rules of Professional Conduct.
3. Scales' conduct in failing to respond promptly to the N.C. State Bar's inquiries about the French, Sills and Scales estates violated Rule 8.1 of the Revised Rules of Professional Conduct.
4. Scales' violations of the Revised Rules of Professional Conduct are mitigated by the fact that his conduct was the result of personal problems and depression, the fact that he has no prior discipline, has a good reputation for honesty and ability as an attorney, did not benefit or gain financially from his inaction, was not motivated by dishonesty, has expressed sincere remorse, has been cooperative with the N.C. State Bar in recent months and has agreed to seek an evaluation and treatment, if necessary, for his depression.
5. Scales is admonished for his violations of the Revised Rules of Professional

conduct and is hereby transferred to disability inactive status pursuant to § .0118 of the N.C. State Bar Discipline & Disability Rules.

6. The order transferring Scales to disability inactive status is stayed for a period of five years from the effective date of this order, upon the following conditions:

a. Scales shall consult a psychiatrist in the Forsyth County area approved by the N.C. State Bar within 30 days of the effective date of this order, for further evaluation for depression and to determine if Scales is suffering from any other disorder, including substance abuse. Scales shall follow the treatment plan recommended by the psychiatrist, if any, throughout the five year stay period or such shorter period recommended by the psychiatrist or successor physician.

b. Scales shall provide quarterly written reports throughout the five year stay period (or until released by his psychiatrist), to the Office of Counsel, confirming that he is complying with the treatment plan recommended by his physician or successor physician. The first written report shall be due to the Office of Counsel no later than April 1, 2001 and the quarterly reports shall be received by the Office of Counsel no later than each July 1, Oct. 1 and Jan. 1 throughout the five year stay period. The report shall describe the course of treatment being followed by Scales and shall be signed by his treating therapist or physician. It shall be Scales' responsibility to ensure that the reports are submitted to the Office of Counsel.

c. Scales shall also comply with all treatment plans and recommendations of Dr. Donald W. Peters, M.D., throughout the five year stay period or until released by Dr. Peters, whichever first occurs.

d. Scales hereby agrees to waive any patient-physician privilege as to the psychiatrist whom he consults pursuant to this order and as to Dr. Peters. Within 30 days of the effective date of this order, Scales shall delivered a signed release to permit the N.C. State Bar Office of Counsel to obtain records from and consult with Scales' aforementioned physician(s) respecting his treatment, medical condition and compliance with the treatment program. Scales shall not revoke the release at any time during the 5 year stay period.

e. Scales shall be solely responsible for the cost of all evaluations, reports and treatment required by this order.

f. Scales shall restrict his practice to the areas of real estate, social security, military matters and estate planning (excluding administration of estates), during the five year stay period.

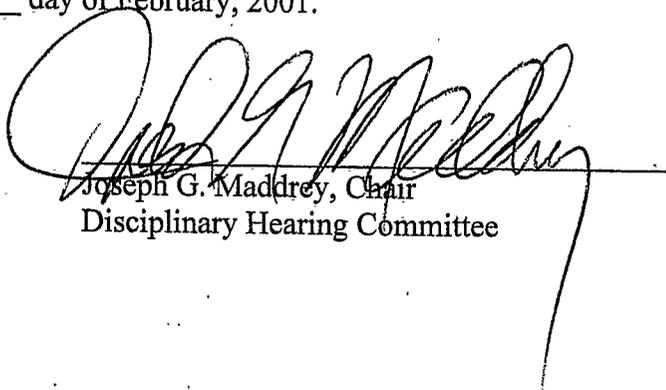
g. Scales shall not violate any provisions of the Revised Rules of Professional Conduct and shall respond in a timely fashion to all letters of notice from the North Carolina State Bar during the five year stay period.

7. Any violation of the terms set out in paragraph 3 of this order shall be grounds for the transfer of Scales to disability inactive status.

8. Scales shall pay the costs of this proceeding within 30 days of the effective date of this order.

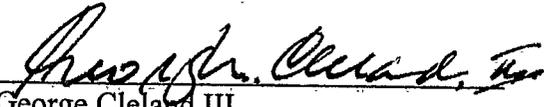
Signed by the Chair of the Hearing Committee with the consent of the other hearing committee members,

This the 20 day of February, 2001.

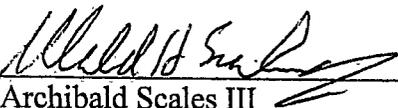


Joseph G. Maddrey, Chair
Disciplinary Hearing Committee

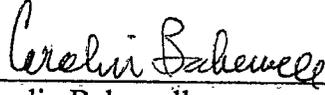
Seen and consented to:



George Cleland III,
Defendant's Attorney



Archibald Scales III
Defendant



Carolin Bakewell
Plaintiff's Attorney