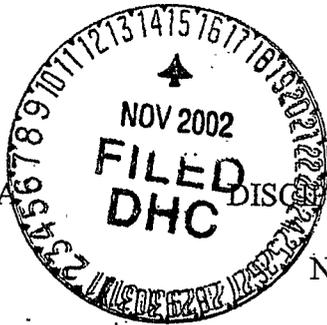


WAKE COUNTY  
NORTH CAROLINA



20169

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
02 DHC 12

THE NORTH CAROLINA STATE BAR )  
Plaintiff )

v. )

DOUGLAS UNDERWOOD, ATTORNEY )  
Defendant )

CONSENT ORDER  
OF DISCIPLINE

THIS MATTER came on to be heard and was heard by a duly appointed hearing committee of the Disciplinary Hearing Commission composed of W. Steven Allen, Chair; Karen E. Eady and Margaret P. Watts. The Defendant was represented by John H. Painter. Carolin Bakewell represented the N.C. State Bar. Based upon the pleadings in the file and the consent of the parties, the hearing committee 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, Douglas Underwood (Underwood), was admitted to the North Carolina State Bar in August 1993, 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 relevant hereto, Underwood was engaged in the practice of law in Monroe, Union County, North Carolina.
4. Underwood has waived his right to a formal hearing.
5. Underwood was properly served with process herein.

6. In February 1999, Underwood was appointed to perfect an appeal on behalf of Susan Gregg (Gregg) from an order that had been entered in Union County District Court terminating Gregg's parental rights.

7. After he was appointed to handle Ms. Gregg's case, Underwood concluded that, at least in his opinion, there was no legitimate basis on which to appeal the decision of the district court.

8. Underwood failed to perfect the appeal on Ms. Gregg's behalf.

9. Underwood did not advise Ms. Gregg that he did not intend to pursue an appeal on her behalf, nor did he seek to withdraw as her attorney.

10. Underwood did not respond to Ms. Gregg's requests for information about the case.

Based upon the foregoing findings of fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. The Disciplinary Hearing Commission has jurisdiction over the subject matter of this proceeding and over the person of the Defendant, Douglas Underwood.

2. The Defendant, Douglas Underwood, violated the Revised Rules of Professional Conduct in the following respects:

a. By failing to perfect an appeal from the termination order on Ms. Gregg's behalf or, alternatively, withdrawing in a timely fashion, Underwood neglected a client matter in violation of Rule 1.3.

b. By failing to advise Ms. Gregg that he did not intend to perfect an appeal on her behalf and by failing to respond to her requests for information about the status of her case, Underwood failed to communicate with his client in violation of Revised Rule 1.4.

In addition to the foregoing Findings of Fact and Conclusions of Law, the hearing committee also makes the following

#### ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. During the period in which Underwood was handling Ms. Gregg's case, he was suffering from depression and addiction to alcohol.

2. Underwood has previously been disciplined by the N.C. State Bar for misconduct which occurred at the same time he was handling Ms. Gregg's case.

3. Prior to the entry of the order of discipline against Underwood in 00 DHC 26 on Jan. 15, 2001, Underwood entered into a contract with the State Bar Positive Action for Lawyers Program.

4. Underwood has failed to comply with the terms and conditions of the order of discipline entered against him on Jan. 15, 2001 in that he has not:

- a. provided written reports from his physician and from the State Bar Lawyers Assistance Program each quarter, confirming that he has complied with all treatment plans and his recovery contract.
- b. provided a written report regarding his trust account from a CPA no later than Dec. 31, 2001 containing all of the information required in paragraph "m" of the Jan. 15, 2001 order of discipline.

Based upon the foregoing findings of fact and conclusions of law and the findings regarding discipline and based upon the consent of the parties, the hearing committee enters the following:

#### ORDER OF DISCIPLINE

1. The law license of the defendant, Douglas Underwood, is hereby suspended for two years. The suspension is stayed until January 15, 2004, upon the terms and conditions set out in the order of discipline entered in 00 DHC 26, which are hereby incorporated herein.
2. The Defendant shall pay the costs of this proceeding within 30 days of service of the notice of costs upon him by the Secretary of the North Carolina State Bar.

Signed by the hearing committee chair with the consent of the other hearing committee members.

This the 14<sup>th</sup> day of November, 2002.

  
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W. Steven Allen, Sr., Chair

Seen and consented to:

Carolyn Bakewell

Carolyn Bakewell  
Plaintiff's Attorney

John H. Painter

John H. Painter  
Defendant's Attorney

Douglas Underwood

Douglas Underwood  
Defendant