

7024

WAKE COUNTY

NORTH CAROLINA



DISCIPLINARY HEARING COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 02 DHC 9

THE NORTH CAROLINA STATE BAR
 PLAINTIFF

v.

MELVYN H. BROWN JR.
 DEFENDANT

)
)
) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) & ORDER
)
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)

THIS MATTER came on to be heard and was heard on Friday, June 27, 2003, before a duly assigned committee of the Disciplinary Hearing Commission composed of Elizabeth Bunting, Chair; Karen Eady-Williams and Marguerite Watts. The defendant, Melvyn H. Brown, Jr., was represented by David R. Tanis. Carolin Bakewell represented the N.C. State Bar. Based upon the evidence presented at trial and the pleadings herein, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. On Dec. 3, 2002, the Disciplinary Hearing Commission entered an order of discipline herein. The order suspended Brown's law license for one year and stayed the suspension for three years, based on various conditions. Pursuant to the order, Brown was required, inter alia, to:

- a. Select a practice monitor approved by the State Bar by Nov. 30, 2002.
- b. Meet with the approved practice monitor at least once a month throughout the term of the stayed suspension.
- c. Provide written reports to the State Bar signed by the practice monitor confirming that the meetings are occurring, on each Jan. 1, April 1, July 1 and Oct. 1 throughout the term of the stayed suspension.

- d. Successfully complete a three hour course in law office management by March 1, 2003.
 - e. Submit proof that he had completed the law office management course to the Office of Counsel by April 15, 2003.
 - f. Successfully complete a three hour course in trust account management by March 1, 2003 or as soon thereafter as practicable.
2. Brown signed the order of discipline and was familiar with its terms.
 3. Shortly after the order of discipline was signed, Brown selected David R. Tanis, who had represented him in the underlying disciplinary case, as his monitor.
 4. Brown did not seek the State Bar's approval of the selection of Mr. Tanis as his monitor.
 5. Bar counsel wrote to Tanis on Feb. 7 and March 14, inquiring about the identity of the monitor.
 6. Brown testified that Tanis assured him that he would "take care of" responding to the Bar's inquiries.
 7. Tanis did not respond to Bar counsel's Feb. 7 or March 14 letters.
 8. The State Bar did not approve a bar monitor for Brown until June 26, 2003.
 9. Brown met at least monthly with Tanis to discuss the status of his practice between December 2002 and the present. Brown has represented approximately 3 – 5 clients between the entry of the disciplinary order and the present. He testified that he had no plans to expand his practice.
 10. Brown did not submit the required Jan. 1 and April 1, 2003 reports to the State Bar. On Jan. 31, Brown did write a letter to Tanis, outlining the status of several client matters. That letter, which was signed only by Brown, was forwarded to the State Bar shortly thereafter.
 11. Brown completed the required three hour CLE course on law office management on Feb. 21, 2003. He did not submit proof of compliance of this requirement to the State Bar until May 27, 2003.
 12. Brown has not taken the required three hour CLE course on trust account management and testified that he had had trouble locating an appropriate course, in part because he has health problems and does not drive.

13. Bruno DeMolli, who conducts the State Bar's random audit program, is available to provide training on trust account management at no charge to North Carolina attorneys and could assist Brown in complying with the trust account CLE requirement.

Based upon the foregoing Findings of Fact, the Hearing Committee makes the following:

CONCLUSIONS OF LAW

1. Defendant, Melvyn Brown, violated the terms of the disciplinary order entered herein in the following particulars:

- a. Brown failed to select a monitor and get the monitor approved by the State Bar by Nov. 30, 2002.
- b. Brown failed to submit evidence to the State Bar by April 15, 2003 that he completed a 3 hour CLE course on law office management.
- c. Brown failed to forward reports confirming that he was meeting with an approved monitor at least monthly to the State Bar by the Jan. 1 and April 1 deadlines.
- d. Brown failed to complete a 3 hour CLE course on trust account management.

2. Brown's violation of the order was not the result of a deliberate intent to disregard the Hearing Committee's wishes.

3. Because the goals and purposes of the original disciplinary order have not been met, the order of discipline entered herein should be amended, but the protection of the public does not require that the suspension of Brown's license be activated.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Committee hereby enters the following

ORDER OF DISCIPLINE

1. The Consent Order of Discipline entered herein is modified as follows:

- a. Brown shall meet with a practice monitor approved by the State Bar at least monthly throughout the term of the stayed suspension of his law license.
- b. Brown shall ensure that the State Bar Office of Counsel receives a written report no later than the 15th of each month throughout the term of the stayed suspension which specifies that:

- i. Monthly in-person meetings are occurring.
- ii. Brown is meeting all deadlines for his pending client cases.
- iii. Brown is adequately communicating with his clients.
- iv. Brown is complying with the trust account rules of the N.C. State Bar if he is handling client or fiduciary funds.

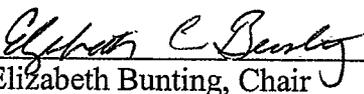
c. No later than Aug. 27, 2003 Brown shall meet with Bruno DeMolli and complete a course in trust account procedures. It is Brown's responsibility to contact Mr. DeMolli and scheduling the training session.

d. No later than Sept. 15, 2003 Brown shall submit a letter to the Office of Counsel confirming that he has met with Mr. DeMolli as required.

2. Except as hereby modified, the remaining terms and conditions of the Consent Order of Discipline remain in place.

This the 11 day of July, 2003.

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



Elizabeth Bunting, Chair
Disciplinary Hearing Committee