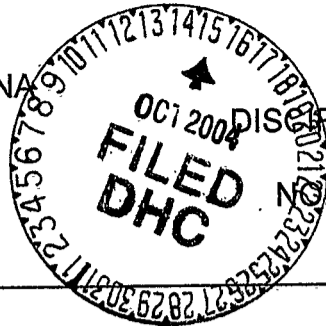


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NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
04 DHC 37

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
MARTIN J. HORN, Attorney,)
Defendant)

CONSENT ORDER OF
DISCIPLINE

This matter was heard by a Hearing Committee of the Disciplinary Hearing Commission composed of W. Steven Allen, Chair, T. Richard Kane, and Lorraine Stephens. Margaret Cloutier represented plaintiff. Alan M. Schneider represented Defendant. Defendant has agreed to waive a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant also stipulates that he waives his right to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this order.

Based on the consent of the parties, the Hearing Committee hereby enters the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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. Defendant, Martin J. Horn (hereinafter "Horn"), was admitted to the North Carolina State Bar on August 23, 1991 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 Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant herein, Horn actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Durham, Durham County, North Carolina.

4. On or about August 1, 2000 and at all other times relevant herein, Horn was a partner, and Rose Marie Candy Pahl (hereinafter "Pahl") was employed as an associate, in the firm of Browne, Flebotte, Wilson & Horn, P.L.L.C. (hereinafter "the firm").

5. On or about August 1, 2000, Ralph Cecil Bennett (hereinafter "Bennett") engaged the firm to represent him in connection with a domestic dispute between Bennett and his estranged wife. The attorney at the firm assigned to Bennett's case was Pahl.

6. Pahl represented Bennett in that dispute which concluded on November 20, 2001 with the entry of various final orders resolving the issues that had arisen during Pahl's representation of Bennett. Although a previous Memorandum of Judgment/Order signed by the parties in September 2001 contained language that all attorneys would be released as attorneys of record upon signing of the formal judgment, none of the orders dated November 20, 2001 bore language relieving Pahl as attorney of record.

7. On November 27, 2001 opposing counsel in Bennett's case sent to Pahl a motion alleging that Bennett was in contempt of a court order dated November 20, 2001. The motion was scheduled for December 4, 2001 and it was eventually heard on January 8, 2002. Before the hearing, Bennett was timely served with the motion.

8. When Pahl received the contempt motion, Bennett had no funds on deposit with the firm upon which to draw to represent him on the contempt matter and Pahl had difficulty contacting Bennett concerning the motion. On December 3, 2001 Pahl prepared a motion requesting permission of the court for the firm to withdraw from further representation of Bennett. As of January 8, 2002, Pahl's motion to withdraw had not been heard by the court and no order allowing withdrawal had been signed.

9. Before the hearing on the contempt motion on January 8, 2002, Horn instructed Pahl not to attend the hearing to represent Bennett based on Horn's belief that the firm was no longer engaged to represent Bennett because of the various orders entered on November 20, 2001 resolving the disputes for which Bennett had originally engaged the firm.

10. Pahl did not attend the hearing on January 8, 2002.

11. When Bennett appeared at the contempt hearing he was appointed counsel by the court.

Based on the foregoing Findings of Fact, the Committee enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Committee, and the Committee has jurisdiction over defendant and the subject matter of this proceeding.

2. Horn's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Horn violated one or more of the Revised Rules of Professional Conduct in effect at the time of the actions as follows:

a. by instructing Pahl not to attend the contempt hearing on Bennett's behalf, Horn failed to make reasonable efforts in the exercise of direct supervisory authority over another attorney to ensure Pahl conformed to the Rules of Professional Conduct in violation of Rule 5.1(b).

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

FINDINGS REGARDING DISCIPLINE

1. Defendant's misconduct is aggravated by the following factors:

(a) substantial experience in the practice of law.

2. Defendant's misconduct is mitigated by the following factors:

(a) absence of a prior disciplinary record;

(b) absence of a dishonest motive,

(c) full and free disclosure to the Hearing Committee and cooperative attitude toward proceedings, and

(d) good reputation in the legal community.

3. The mitigating factors outweigh the aggravating factors.

4. Proper supervision of subordinate attorneys is essential to assure that all members of the bar adhere to ethical tenets established to maintain the quality of justice. Subordinates who look to a supervisory attorney for guidance should receive a well-thought-out response consistent with the Rules of Professional Conduct. However, the Hearing Committee finds and concludes that under the circumstances of this case Horn's conduct is a minor violation of the Rules and the public will be adequately protected by admonishing defendant not to continue or repeat such conduct.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, and upon consent of the parties, the Hearing Committee enters the following

ORDER OF DISCIPLINE

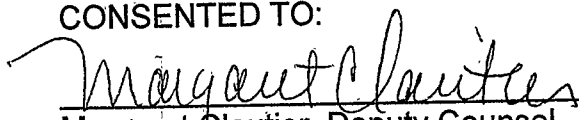
1. The discipline to be imposed in this matter is an Admonition. The Admonition, of even date herewith, accompanies this Order.
2. Horn is taxed with the costs of this action as assessed by the Secretary and shall be paid within thirty days of service of the notice of costs upon him.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Committee, this 7th day of October, 2004.

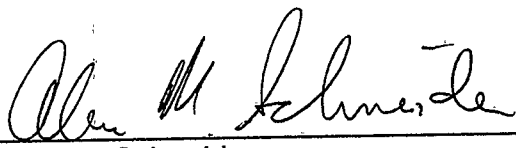


W. STEVEN ALLEN, CHAIR
HEARING COMMITTEE

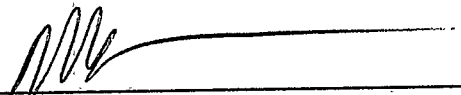
CONSENTED TO:



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff

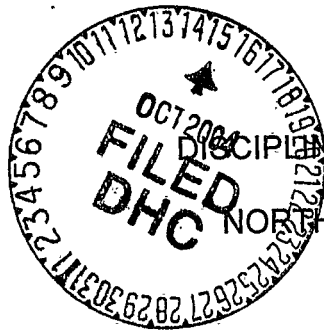


Alan M. Schneider
Attorney for Defendant



Martin J. Horn, Defendant

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
04 DHC 37

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
MARTIN J. HORN, Attorney,)
Defendant)

ADMONITION *

Pursuant to §§.0109, .0114, and .0123 of the Discipline and Disability Rules of the North Carolina State Bar, the Hearing Committee of the Disciplinary Hearing Commission entered a Consent Order of Discipline of even date herewith. After considering the information available to it contained in the pleadings and within the findings of facts, conclusions of law and findings regarding discipline of the Order of Discipline, the Hearing Committee has determined that an admonition is an appropriate discipline given the circumstances of this action.

The rules provide that after a finding of misconduct, the Hearing Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Hearing Committee may issue an admonition, reprimand, censure, suspension or disbarment.

An admonition, which is the least serious form of discipline authorized, is imposed in cases in which an attorney has committed a minor violation of the Rules of Professional Conduct.

On or about August 1, 2000, your law firm was retained to represent Ralph Cecil Bennett in a domestic case. Rose Marie Candy Pahl, an associate in your law firm, was assigned to handle Mr. Bennett's case. The court entered final orders regarding child custody and support, a parenting agreement, and divorce from bed and board and post-separation support. All orders were filed on November 20, 2001 and none of those orders contained language releasing the attorneys of record.

A contempt proceeding was initiated against Mr. Bennett on November 27, 2001 and initially served on Ms Pahl. Before the hearing regarding contempt

heard on January 8, 2002, Mr. Bennett was timely served with the contempt documents by opposing counsel.

Attorney Pahl filed a motion to withdraw from Mr. Bennett's case, but as of January 8, 2002 the court had not ruled on her motion. You instructed Attorney Pahl not to attend Mr. Bennett's contempt hearing on January 8, 2002 because Mr. Bennett had not paid the law firm for representation in that matter.

Ms. Pahl had an obligation to appear at Mr. Bennett's show cause hearing. Although a Memorandum of Judgment/Order filed on September 25, 2001 stated that all attorneys would be released as attorneys of record upon signing of the formal judgment or order by the presiding judge, the Hearing Committee believed that Ms. Pahl could not withdraw from representing Mr. Bennett in the proceeding until the court had given her permission pursuant to her motion to withdraw.

Your conduct violated Rule 5.1(b) of the Revised Rules of Professional Conduct, as your instruction that she not go to court on Mr. Bennett's behalf in the show cause hearing was not in compliance with the rules of professional conduct.

You are hereby admonished by the North Carolina State Bar for your professional misconduct.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Committee, this 7th day of October, 2004.



W STEVEN ALLEN, CHAIR
HEARING COMMITTEE