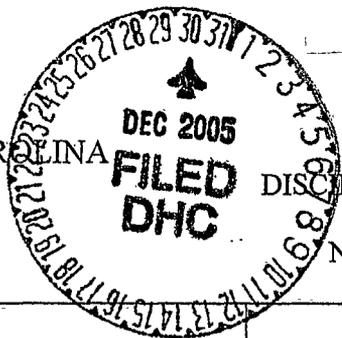


13836



STATE OF NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
03 DHC 20

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

WILLIAM C. SHUMWAY, Attorney,

Defendant

CONSENT ORDER

This matter was considered by a hearing committee of the Disciplinary Hearing Commission composed of Charles Davis, Chair, and members Carlyn G. Poole and H. Dale Almond, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(x). The Plaintiff was represented by Jennifer A. Porter. The Defendant represented himself. Both parties stipulate and agree to the findings of fact recited in this consent order and to the action of this panel ordered herein. 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 upon the stipulations and consent of the parties, the hearing committee hereby finds by clear, cogent, and convincing evidence 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, William C. Shumway (hereinafter, Shumway), was admitted to the North Carolina State Bar on November 4, 1986, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Revised Rules of Professional Conduct.
3. On October 18, 2004 the Disciplinary Hearing Commission entered an order finding that Shumway violated the Rules of Professional Conduct in several respects.
4. The October 18, 2004 Order of Discipline (hereinafter "Order of Discipline") suspended Shumway's license to practice law for five (5) years and stayed

the suspension for five (5) years, on condition that Shumway comply with the requirements set out in the order.

5. The Order of Discipline required Shumway to submit reconciliation records for his trust account with individual client ledgers each month to the North Carolina State Bar. The ledgers must show amounts held and/or disbursed for each client in that month. Shumway has submitted the monthly reconciliation records of his trust account for the months from November 2004 through August 2005 but has not submitted client ledgers for those months.

6. The Order of Discipline required Shumway to have a Certified Public Accountant (CPA) audit his trust account and submit the CPA's report to the State Bar by December 20, 2004. Shumway did not have this audit performed and did not provide a CPA report to the State Bar.

7. The Order of Discipline required Shumway to complete 8 additional continuing legal education hours in law office financial management approved in advance by the Office of Counsel by December 30, 2004. Shumway did not complete these additional hours.

8. Shumway was notified by a letter from the State Bar dated June 15, 2005 that he was not in compliance with the conditions of his stayed suspension as described above. Shumway did not subsequently cure the defects described above or otherwise comply with these conditions.

9. The Order of Discipline required Shumway to respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication. Shumway has failed to comply with this condition, as follows:

- a. Shumway was served with a letter of notice in file 04G1114 on January 6, 2005. The letter of notice stated he had fifteen (15) days from receipt of the letter to respond. Shumway did not respond to the letter of notice. The State Bar subsequently sent Shumway a letter noting that he had not responded and asking for his response by February 11, 2005. Shumway did not respond to the follow up letter. Shumway was subpoenaed to appear on April 18, 2005 and respond to the substance of grievance in this file and produce the pertinent client file. Shumway appeared in response to the subpoena and subsequently submitted a written response to the letter of notice dated April 22, 2005.
- b. Shumway was served with a letter of notice in file 05G0048 on January 31, 2005. The letter of notice stated he had fifteen (15) days from receipt of the letter to respond. Shumway did not respond to the letter of notice. The State Bar subsequently sent Shumway a letter noting that he had not responded and asking for his response by March 17, 2005. Shumway did

not respond to the follow up letter of notice. Shumway was subpoenaed to appear on April 18, 2005 and respond to the substance of grievance in this file and produce the pertinent client file. Shumway appeared in response to the subpoena and subsequently submitted a written response to the letter of notice dated April 22, 2005.

10. Shumway's failure to provide the client ledgers as required by the Order of Discipline prevents the State Bar from evaluating whether Shumway has continued to make overdisbursements from his trust account, which was the primary conduct for which the Order of Discipline imposed discipline.

11. Shumway's failure to have a CPA audit his trust account and failure to provide that audit report to the State Bar prevents the State Bar from determining whether Shumway's trust account is now being maintained in accordance with the applicable State Bar rules.

12. Shumway's failure to attend the additional continuing legal education course hours indicates that Shumway has failed to obtain the additional information and education the hearing committee found that he needed to address his misconduct and prevent a recurrence.

13. Shumway's failure to respond to the State Bar's letters of notice by the deadlines expressed in such communications evidences a continuing disregard for the authority of the State Bar to regulate the attorneys of North Carolina and for his obligations to the State Bar as part of this self-regulation, and compromises the ability of the State Bar to protect the public.

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the hearing committee enters 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 of this proceeding.

2. Shumway has failed to comply with the conditions of the stay of his suspension, as recited above.

3. A hearing committee of the DHC previously determined that a five year suspension of Shumway's law license was the discipline necessary to address the harm to the profession and the significant threat of harm posed to his clients caused by his misconduct, as recited in the Order of Discipline entered in this matter dated October 18, 2004, if Shumway failed to comply with the conditions of the stay of that suspension.

4. Shumway's willful and repeated failures to comply with the Order of Discipline entered in this case are significant, directly affect the ability of the State Bar to

protect the public and the profession as found above, and warrant activation of the five year suspension of his law license.

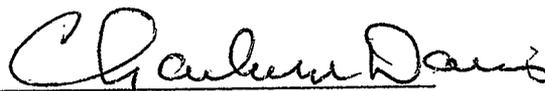
THEREFORE, IT IS HEREBY ORDERED:

1. The stay of the suspension of the law license of William C. Shumway imposed by the Order of Discipline previously entered in this case dated October 18, 2004 is hereby lifted, and the law license of William C. Shumway is hereby suspended for five years, effective thirty days from the filing of this order.
2. Shumway shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following the filing of this order.
3. Shumway shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.
4. Shumway shall properly disburse the funds remaining in his trust account upon the effective date of this suspension. Shumway must provide the Office of Counsel of The North Carolina State Bar with client ledgers for clients who have funds in his trust account on the effective date of this suspension showing all receipts and disbursements for such clients. Shumway must also provide the State Bar with a final reconciliation of his trust account, accounting for all activity from the effective date of this suspension through the closing out of his trust account. This documentation is due sixty (60) days from the effective date of this suspension.
5. Should Shumway seek reinstatement, Shumway will be required to show by clear, cogent, and convincing evidence the following, in addition to the requirements of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125 of the North Carolina State Bar Discipline & Disability Rules:
 - a. He properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the State Bar Discipline & Disability Rules;
 - b. He paid the costs of this proceeding within 30 days of service of the statement of costs upon him;
 - c. He properly disbursed the funds remaining in his trust account upon the effective date of this suspension. Shumway must provide the State Bar with client ledgers for clients who had funds in his trust account on the effective date of this suspension showing all receipts and disbursements for such clients. Shumway must also provide the State Bar with a final reconciliation of his trust account, accounting for all activity from the effective date of this suspension through the closing out of his trust account;

- d. He kept the North Carolina State Bar Membership Department advised of his current business and home address;
- e. He responded to all communications from the North Carolina State Bar received after the effective date of this order within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and
- f. He has not violated the Revised Rules of Professional Conduct or the laws of the United States or any state.

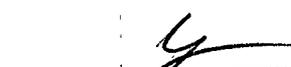
Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

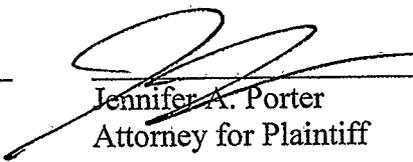
This the 29 day of December 2005.



Charles Davis, Chair
Disciplinary Hearing Committee

Agreed to and consented by:



William C. Shumway
Defendant

Jennifer A. Porter
Attorney for Plaintiff