

NORTH CAROLINA
WAKE COUNTY



21861

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
06 DHC 33

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
MICHAEL P. HUGO, Attorney,)
Defendant)

CONSENT
FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE

This matter comes before a hearing committee of the Disciplinary Hearing Commission composed of T. Richard Kane, Chair, John Breckenridge Regan, and Donald G. Willhoit upon the consent of the parties as to the findings, conclusions and discipline to be imposed. A. Root Edmonson represents the North Carolina State Bar and Michael P. Hugo is proceeding *pro se*. Based upon the consent of the parties, the hearing committee makes 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, Michael P. Hugo ("Hugo"), was admitted to the North Carolina State Bar on August 4, 1995 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. Hugo was administratively suspended from November 7, 2003 to April 15, 2005 for failure to complete Continuing Education Requirements. Otherwise, Hugo actively engaged in the private practice of law in the State of North Carolina and maintained a law practice in the City of Raleigh, Wake County, North Carolina.

4. On September 14, 2005, Lawrence W. contacted a representative of the North Carolina State Bar's Client Assistance Program regarding Hugo. Due to a concern that Hugo may have held himself out to Lawrence W. as able to practice law while he was administratively suspended, the North Carolina State Bar opened a grievance file against Hugo. The grievance was assigned file number 05G0986.

5. On October 17, 2005, Hugo was sent a Letter of Notice by certified mail, Article Number 91 7108 2133 3931 4414 3201, that directed Hugo to respond to the substance of the grievance that was attached to the letter within 15 days.

6. On November 4, 2005 the United States Postal Service returned the envelope for Article Number 91 7108 2133 3931 4414 3201 to the North Carolina State Bar. The envelope showed that notices had been left with Hugo on October 19, 2005 and October 27, 2005 before the envelope was returned.

7. On November 16, 2005 the return receipt for the October 17, 2005 Letter of Notice, Article Number 91 7108 2133 3931 4414 3201, was signed by someone on Hugo's behalf.

8. Prior to receiving the signed return receipt from the United States Postal Service, on November 17, 2005 a copy of the October 17, 2005 Letter of Notice and its attachment were sent to the Wake County Sheriff in a sealed envelope for service upon Hugo.

9. On November 29, 2005, Hugo was personally served with a copy of the October 17, 2005 Letter of Notice and its attachment by a Wake County Deputy Sheriff.

10. On December 1, 2005, because of a trial that would occupy Hugo through December 19, 2005, Hugo sought, and was granted, an extension of time to respond to the Letter of Notice until December 30, 2005.

11. On February 7, 2006, Hugo advised a representative of the North Carolina State Bar that he would be in a position to respond to the Letter of Notice the following week.

12. Hugo thereafter failed to respond to the October 17, 2005 Letter of Notice or seek any further extension of time to respond.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee of the Disciplinary Hearing Commission and the hearing committee has jurisdiction over Hugo and the subject matter.

2. Hugo's conduct, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- (a) by failing to respond to a lawful demand for information from a disciplinary authority, the October 17, 2005 Letter of Notice and its attachment, Hugo violated Rule 8.1(b).

BASED UPON the foregoing Findings of Fact, the Conclusions of Law, and the evidence presented at the hearing, the hearing committee hereby makes the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Hugo's misconduct is aggravated by the following factor:

(a) A prior disciplinary offense:

An Admonition issued by the Grievance Committee in 05G0260 for continuing to practice law after being notified of an administrative suspension and failing to file a timely response to the letter of notice issued in that case.

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

(a) Absence of a dishonest or selfish motive;

3. The aggravating factor outweighs the mitigating factor.

4. After Hugo failed to respond to the Letter of Notice issued in this case, the State Bar conducted an investigation that did not show that Hugo had engaged in conduct that warranted discipline in his representation of Lawrence W. However, the State Bar would not have had to conduct that investigation if Hugo had simply responded to the Letter of Notice.

5. Entry of an order imposing lesser discipline than a Reprimand would fail to acknowledge the seriousness of Hugo's failure to attend to his obligation to abide by the rules of the North Carolina State Bar concerning the administration of the disciplinary process.

BASED UPON the foregoing Findings of Fact Regarding Discipline and the consent of the parties, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. The appropriate discipline to be imposed against Hugo is a Reprimand. The Reprimand is contained in a separate document of even date herewith.

2. Hugo is taxed with the costs of this action as assessed by the Secretary.

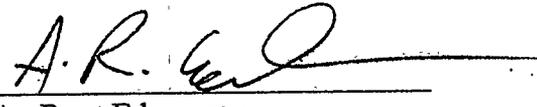
Signed by the chair with the consent of the other hearing committee members, this

the 9th day of MARCH 2007.

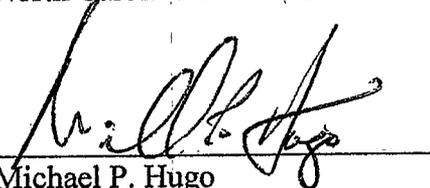


T. Richard Kane, Chair
Hearing Committee

CONSENTED TO:



A. Root Edmonson
Deputy Counsel
North Carolina State Bar



Michael P. Hugo
Pro Se

Issued this the 9th day of MARCH 2007.



T. Richard Kane, Chair
Hearing Committee