

STATE OF NORTH CAROLINA

WAKE COUNTY

IN THE MATTER OF THE DISCIPLINE

of

BAMBI FAIVRE WALTERS, Attorney,

Respondent.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
08 CVS 004182

ORDER OF DISCIPLINE

This matter was heard on December 15, 2009 in Wake County Superior Court pursuant to an Order to Show Cause entered on November 3, 2009 by the Honorable Ben F. Tennille, Chief Special Superior Judge for Complex Business Cases, raising the question of whether Bambi Faivre Walters should be disciplined for failing to appear before the Business Court on October 22, 2009 pursuant to a September 30, 2009 order of the Business Court. A. Root Edmonson and Jennifer Porter, each a Deputy Counsel for the North Carolina State Bar, appeared to prosecute this matter. Bambi Faivre Walters appeared *pro se*.

Based upon the records of this Court and the evidence presented at the hearing, the Court finds the following to be supported by clear, cogent and convincing evidence:

FINDINGS OF FACT

1. In 2008, Bambi Faivre Walters (hereinafter, "Walters") filed a lawsuit in Wake County Superior Court denominated *Walters & Zimmerman, PLLC, Walters & Zimmerman, Bambi Faivre Walters, Bambi Faivre Walters, PC v. Scott P. Zimmerman, Scott P. Zimmerman, PLLC*, file number 08 CVS 004182 (hereinafter, "*Walters v. Zimmerman*").
2. In March 2008, *Walters v. Zimmerman* was designated a complex business case by order of the Chief Justice of the Supreme Court of North Carolina and assigned to Chief Special Superior Judge for Complex Business Cases, Ben F. Tennille.
3. Rule 6.5 of the General Rules of Practice and Procedure for the North Carolina Business Court (hereinafter, Business Court Rules) allows filing of pleadings and other communications to be made by electronic filing and service of those pleadings and communication to be made by e-mail notice when electronic filing is ordered by the Business Court. Rule 6.5 requires each person who may be served by e-mail notice to be responsible for timely monitoring of receipt of e-mail messages and to notify the Business Court and others involved of any change in e-mail address.
4. Rule 6.11 of the Business Court Rules allows the Business Court to file electronically all orders, decrees, judgments and proceedings of the Business Court and provides

that transmission of a Notice of Entry of any such document by e-mail to constitute service of the Business Court's document.

5. On May 12, 2008, Walters signed a Case Management Report in *Walters v. Zimmerman* in which she agreed to use the Business Court's electronic filing system and agreed that no other service other than by e-mail transmissions from the Business Court would be necessary.

6. Walters was aware that the only means the Business Court had to communicate with her was by e-mail and knew the importance of keeping that line of communication open and regularly monitored.

7. On January 7, 2009, Judge Tennille entered an order appointing James Lester (hereinafter, "Lester") as receiver for Walters & Zimmerman, PLLC and ordering Walters and Scott P. Zimmerman to compensate Lester for his services at the rate of \$300 an hour by the end of the month in which Lester's bills were received.

8. Thereafter, Lester provided services on behalf of Walters & Zimmerman, PLLC and sent Walters invoices that she did not pay by the end of the months in which they were received.

9. On July 7, 2009, Walters sent an e-mail to Lester disagreeing with his interim report, disagreeing with his billing practices and finding his billing to be excessive.

10. On July 8, 2009, Lester sent Walters an e-mail in response indicating that his invoices are detailed and accurate and that payment was long overdue. Lester told Walters to feel free to submit the invoices to the Court if she wished to dispute them. In addition, Lester again asked Walters to provide tax return information because previous responses to his requests had been inadequate and not supplemented as promised. Lester advised Walters that he would seek a court order if she didn't send the requested information to him by noon on July 9, 2009.

11. At some point between early July 2009 and the middle of August 2009, Walters intentionally blocked all e-mails from *info@ncbusinesscourt.net*, the site from which all orders and other communications would be sent to Walters from the Business Court, including orders and other communications in *Walters v. Zimmerman*. This block prevented any e-mails from *info@ncbusinesscourt.net* from being delivered to e-mail addresses the Business Court had on file to use to communicate with Walters.

12. On July 21, 2009, the Business Court ordered Walters to produce tax return information for 2005, 2006 and 2007 to Lester and gave Walters ten days to file any objection to Lester's invoices. The July 21, 2009 Order was served on Walters by e-mail notification at the three e-mail addresses Walters had listed with the Business Court.

13. Walters did not produce any tax information to Lester and did not file any objection to Lester's invoices with the Business Court.

14. On August 6, 2009, Lester sent Walters an e-mail requesting the 2005, 2006 and 2007 tax return information and mentioned the Business Court's order.

15. Within an hour, Walters responded to Lester's e-mail questioning what tax information Lester needed, but not inquiring further about the Business Court's order that Lester had mentioned.

16. On August 12, 2009, the Business Court ordered Walters to pay Lester's invoices. The August 12, 2009 Order was served on Walters by e-mail notification at the three e-mail addresses Walters had listed with the Business Court.

17. On August 19, 2009, Lester sent Walters another e-mail indicating that he had not received the tax return information per his earlier requests and the Business Court's order.

18. Because of Lester's e-mails, Walters had reason to believe that the Business Court had entered at least one order at some point in July or August 2009, but made no attempt to access the Business Court's docket which she could have accessed online.

19. Due to Walters' failure to comply with the Business Court's orders of July 21, 2009 and August 12, 2009, and Walters' failure to file a status report pursuant to another order of the Business Court entered on September 21, 2009, Judge Tennille issued a Show Cause Order on September 30, 2009 requiring Walters to show cause why she should not be held in civil and criminal contempt for failing to follow the three orders of the Business Court and scheduled a show cause hearing for 10:00 a.m. on October 22, 2009 at the Business Court in Greensboro, NC. The Show Cause Order was served on Walters by e-mail notification at the three e-mail addresses Walters had listed with the Business Court.

20. Walters failed to appear at the Business Court in Greensboro on October 22, 2009 as ordered by the Business Court.

21. Walters realized by the end of November 2009 that she had failed to appear in violation of Judge Tennille's order. Walters took no action between that time and the date of this hearing to apologize to Judge Tennille or otherwise rectify the consequences of her actions.

22. Walters has been experiencing personal and emotional problems arising from a fractured relationship with a former client and from family matters from about July 2009 through the present time.

23. After the hearing in this matter, Walters provided additional information to the Court by letter dated December 23, 2009 that provided the Court further insight into her personal circumstances that the Court has considered.

BASED UPON the foregoing Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

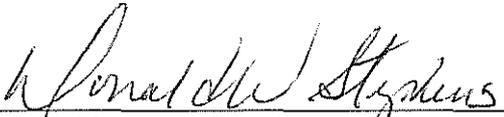
1. This Court has personal jurisdiction over Walters and has subject matter jurisdiction pursuant to the inherent power of the Court to discipline officers of the Court.
2. By intentionally blocking any means that the Business Court had to communicate with her in *Walters v. Zimmerman*, Walters completely abandoned her obligation as an attorney to the Business Court.
3. Walters' failure to maintain communication with the Business Court when she knew or should have known that the Business Court had entered an order requiring her to provide tax return information was either willful or the result of an intentional act that constituted gross negligence on her part.
4. As a result of Walters' misconduct which was either willful or grossly negligent, Walters failed to appear at the Show Cause Hearing at the Business Court on October 22, 2009.
5. Walters' conduct was prejudicial to the administration of justice and particularly prejudicial to the administration of the Business Court and the case that she had before that Court in violation of Rule 8.4(d) of the Rules of Professional Conduct.
6. Walters' misconduct is aggravated by her failure to take any remedial action but is mitigated by her personal and emotional problems as presented at the hearing and in her letter dated December 23, 2009.

THEREFORE, this Court, after considering the harm to the administration of justice and after considering all possible sanctions including reprimand, censure, suspension of her license and disbarment, enters the following:

ORDER OF DISCIPLINE

1. Bambi Faivre Walters is hereby suspended from practice before the trial and appellate courts of the General Courts of Justice of the State of North Carolina for a period of nine (9) months from December 15, 2009.

Signed this 12 day of January 2010 *nunc pro tunc* to December 15, 2009.


Honorable Donald W. Stephens
Senior Resident Superior Court Judge
10th Judicial District