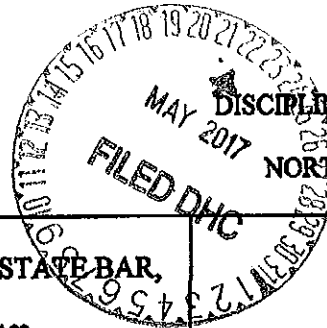


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 52 B-R

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JANE DEARWESTER SOBOLESKI,

Defendant/Petitioner

ORDER STAYING SUSPENSION

THIS MATTER is before a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, David W. Long and Tyler B. Morris pursuant to a Petition for Stay filed by Petitioner Jane Dearwester (formerly Jane Soboleski) on April 19, 2017.

Based upon a review of the records of the Disciplinary Hearing Commission, the Hearing Panel makes the following:

FINDINGS OF FACT

1. Pursuant to a consent Order of Discipline filed in this matter on June 30, 2016, Dearwester was suspended from the practice of law for three years.
2. The effective date of the Order of Discipline was August 18, 2016.
3. The Order of Discipline provided that Dearwester would be eligible to seek a stay of any remaining period of suspension after serving six months of active suspension and upon compliance with conditions stated in the Order of Discipline.
4. As of February 18, 2017, Dearwester had served six months of active suspension.
5. Dearwester filed a verified petition on April 19, 2017 requesting a stay of the remaining period of her suspension and seeking reinstatement to active status subject to conditions and requirements set forth in the Order of Discipline.
6. The Order of Discipline requires that Dearwester be in compliance with conditions set out therein to qualify for a stay of the remaining period of suspension.

7. In her verified petition, Dearwester certified that she has satisfied all of the conditions in the Order of Discipline for a stay of the remaining period of her suspension.

8. After conducting an investigation of Dearwester's compliance with the requirements set forth in 27 N.C.A.C. 1B § .0125(b) and the conditions in the Order of Discipline, counsel for the North Carolina State Bar did not file an objection to Dearwester's petition for stay of the suspension.

BASED UPON the foregoing Findings of Fact, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over Petitioner, Jane Dearwester, and the subject matter of this proceeding.

2. Dearwester has satisfied the requirements set forth in Rule .0125(b) and the conditions in the Order of Discipline for a stay of her suspension and reinstatement to active status, subject to Dearwester's continued compliance with the conditions set forth in paragraphs 8 (a) through 7(i) on pages 10-12 of the June 30, 2016 Order of Discipline.

THEREFORE, it is hereby ORDERED:

1. Dearwester's April 19, 2017 Petition for Stay is ALLOWED, the balance of the suspension of her law license is stayed, and she shall be permitted to resume practicing law subject to the conditions set forth in paragraph 2 below.

2. The remaining period of suspension of Dearwester's law license is stayed as long as she continues to comply with the following conditions:

- (a) Defendant is current in payment of all Membership dues, fees, assessments and costs, including all Client Security Fund assessments and other charges or surcharges that the State Bar is authorized to collect from Defendant, including all judicial district dues, fees and assessments;
- (b) That there is no deficit in Defendant's completion of mandatory CLE hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs;
- (c) Within the first year of the stayed suspension, Defendant shall complete three hours of CLE in the area of trust account management approved by the Office of Counsel of the State Bar. At least one such session shall be the Trust Accounting Rules Continuing Legal Education Program taught by the Trust Account Compliance Counsel for the North Carolina State Bar. Defendant shall provide written proof of successful completion of the CLE courses to the State Bar within ten days of completing the

courses. These three hours are in addition to the CLE requirements set out in 27 N.C. Admin. Code ID § .1518;

- (d) During the stayed suspension, Defendant shall personally perform the three-way reconciliations of all bank accounts into which are deposited any funds which Defendant is required to hold in trust for the benefit of any client or third party, using the reconciliation method described in the State Bar Lawyer's Trust Account Handbook and using the reconciliation form provided therein. Defendant shall provide the three-way reconciliation report and all appropriate supporting documentation to the Certified Public Accountant (CPA) as provided below within fifteen days of the end of each quarter;
- (e) Defendant shall engage the services of a CPA to audit her trust account on a quarterly basis to ensure Defendant's compliance with the Rules of Professional Conduct relating to trust accounts.
 - i. The CPA must submit quarterly a written report to the Office of Counsel concerning whether Defendant's reconciliations and trust account records and activities comply with the Rules of Professional Conduct, including but not limited to report of any accounting irregularities and any deviation from the requirements of the Rules of Professional Conduct, with a copy of the report sent simultaneously to Defendant. The CPA's reports are due no later than thirty days after the end of each quarter (each January 30, April 30, July 30, and October 30 during the period of stay). It is Defendant's sole responsibility to ensure the CPA completes and submits the reports as required herein;
 - ii. If any of the CPA reports note any irregularities or deficiencies, Defendant shall take all remedial action necessary to bring the trust account into compliance with the Rules of Professional Conduct and shall provide proof of the remedial action and compliance to the CPA and to the Office of Counsel of the State Bar within fifteen days of the date of the CPA's report;
 - iii. All CPA evaluations, reports, and services referred to herein will be completed and submitted at Defendant's sole expense; and
 - iv. Failure of Defendant to ensure the CPA submits any report required by this Order shall be grounds to lift the stay and activate the suspension;
- (f) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during the stay of her suspension;

- (g) Defendant shall keep the State Bar Membership Department advised of her current business address. Defendant shall notify the State Bar of any change of address within ten days of such change. Her current business address must be a street address, not a post office box or drawer;
- (h) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of such communication or by the deadline stated in the communication, whichever is sooner;
- (i) Defendant shall participate in good faith in the State Bar's fee dispute resolution process for any petition which is pending during any stay of the suspension.

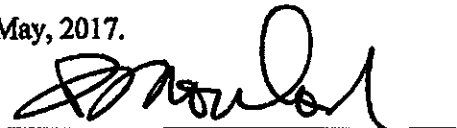
3. If Defendant fails to comply with any one or more of the conditions of the stay of suspension provided in paragraphs 2 (a) – (i) above, the stay of suspension may be lifted in accordance with 27 N.C. Admin. Code 1B § .0114(x).

4. Defendant's obligations governing the stay under this Order end after the applicable period of the stay provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension. Pursuant to § .0114(x) of the North Carolina Discipline and Disability Rules, the DHC retains jurisdiction until all conditions of the stay of the suspension have been met. If a motion or show cause proceeding alleging lack of compliance with the conditions for the stay of the suspension is pending when the period of the stay of the suspension would otherwise have terminated, the DHC retains the jurisdiction and ability to lift the stay of the suspension and activate the remaining portion of the suspension in whole or in part if it finds that any of the conditions of the stay have not been met. The stay of the suspension and Defendant's obligation to comply with the conditions for the stay will continue until resolution of any such pending motion or show cause proceeding.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0114(x) throughout the period of the suspension, any stay thereof, and until all conditions set forth in paragraph 2 above are satisfied.

6. The stay of the remainder of Dearwester's suspension is effective immediately upon the filing of this Order.

Signed by the undersigned Chair with the knowledge and consent of the other members of the Hearing Panel, the 22nd of May, 2017.



Fred M. Morelock, Chair
Disciplinary Hearing Panel