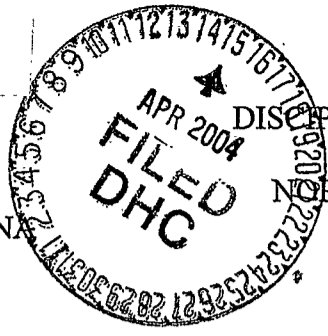


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WAKE COUNTY  
NORTH CAROLINA



DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
01 DHC 16

THE NORTH CAROLINA STATE BAR  
PLAINTIFF  
v.  
DARWIN LITTLEJOHN  
DEFENDANT

)  
)  
) FINDINGS OF FACT  
) CONCLUSIONS OF LAW  
) AND ORDER OF DISCIPLINE  
)  
)  
)

THIS MATTER came before a Hearing Committee of the Disciplinary Hearing Commission composed of Elizabeth Bunting, T. Paul Messick, Jr., and H. Dale Almond, pursuant to 27 N.C. Admin. Code Chapter 1 subchapter B, § .0114(h) of the Rules and Regulations of the North Carolina State Bar. The defendant, Darwin Littlejohn, was represented by Michael J. Parker. Carolin Bakewell represented the State Bar. The parties stipulated to the Findings of Fact set out herein. Based upon the stipulations and the evidence presented at the hearing, the hearing committee hereby enters 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, Darwin Littlejohn (Littlejohn), was admitted to the North Carolina State Bar in 1987, 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. During all of the periods relevant hereto, Littlejohn was engaged in the practice of law in the City of Winston-Salem, North Carolina.
4. On Nov. 9, 2001, the Disciplinary Hearing Commission entered an order of discipline which found that Littlejohn violated the Revised Rules of Professional Conduct in a number of respects.

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5. The order suspended Littlejohn's law license for two years and stayed the suspension for three years, based on various conditions. Pursuant to the order, Littlejohn was required, inter alia, to:

- a. Enter into a contract with the Lawyers Assistance Program and comply with all terms of the contract.
- b. Provide semi-annual reports to the Office of Counsel each May 9 and Nov. 9, confirming that Littlejohn was meeting with a supervising attorney at least once a quarter.
- c. Respond in a timely fashion to any communications from the State Bar regarding pending grievances or fee disputes.

6. Littlejohn's contract with the Lawyers Assistance Program required him, inter alia, to contact his PALS monitor at least weekly and to meet at least weekly with his counselor and to attend at least 3 AA/NA meetings per week.

7. Littlejohn failed to keep some appointments with his counselor, failed to meet with his PALS monitor at least once each week and failed to attend at least 3 AA/NA meetings per week. Littlejohn did seek and continues to use the services of a license psychiatrist and regularly attends meetings of AL-ANON. He has been drug and alcohol free for the last four years.

8. Littlejohn has failed to provide the State Bar with timely semi-annual reports regarding his meetings with his practice monitor. The report that was due on May 8, 2002 was filed on Sept. 10, 2002. The report due on Nov. 8, 2002 was filed on Jan. 27, 2003. The report due on May 8, 2003 was filed on July 18, 2003. The report that was due on Nov. 8, 2003 was received on Nov. 10, 2003.

9. Littlejohn has failed to respond in a timely fashion to all correspondence from the State Bar concerning grievances and fee disputes. Specifically, he has failed to file timely responses in the following matters:

- a. On May 9, 2003 the State Bar issued a letter of notice to Littlejohn regarding a fee dispute filed by Bobby Hoskins and directed him to respond within 15 days of service of the letter of notice. Littlejohn was served with the letter of notice on May 9, 2003 but did not file a response until June 12, 2003.

- b. On Oct. 30, 2002, the N.C. State Bar issued a letter of notice to Littlejohn regarding a fee dispute petition filed by Jenane Bradley and directed him to respond within 15 days of receipt of the letter. Littlejohn was served with the letter of notice concerning the Bradley petition on Nov. 4, 2002. The State Bar mailed Littlejohn a follow up letter on Nov. 18, 2002, but Littlejohn did not respond to the Bradley fee dispute petition until Dec. 4, 2002.
- c. On May 16, 2003, the State Bar mailed Littlejohn a letter of notice regarding a grievance filed by Sylvia Minor and directed him to respond to the letter of notice within 15 days. Littlejohn was served with the letter of notice on May 19, 2003 but did not file a response until June 12, 2003.

Based upon the foregoing Findings of Fact, and the consent of the parties, the Committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Committee and the Committee has jurisdiction over the defendant, Darwin Littlejohn and the subject matter of this proceeding.
2. Littlejohn's conduct, as set out herein, violated the provisions of the order of discipline entered herein on Nov. 9, 2001 in the following respects:
  - a) He failed to comply with all terms of his contract with the Lawyers Assistance Program.
  - b) He failed to file timely semi-annual reports with the Office of Counsel confirming that he was meeting with his supervising attorney.
  - c) He failed to respond in a timely fashion to all communications from the State Bar regarding pending grievances or fee disputes.
3. Littlejohn's violations of the 2001 consent order were knowing and willful.

Based upon the consent of the parties, the hearing committee also enters the following

#### FINDINGS REGARDING DISCIPLINE

1. Littlejohn's conduct is aggravated by the following factors:
  - a) He engaged in multiple violations of the order of discipline entered herein.
  - b) He continued to violate the terms of the order of discipline after the order to appear and show cause was entered herein.
2. An order calling for discipline short of a suspension of Littlejohn's license with appropriate conditions precedent for reinstatement would not sufficiently protect the public for the following reasons:
  - a) Littlejohn has failed to provide any credible evidence that he has addressed whatever problem or character flaw caused his violations of the Revised Rules of Professional Conduct and therefore there is a substantial risk that he would engage in continued violations of the Revised Rules of Professional Conduct if he is permitted to continue to practice law.
  - b) Entry of an order imposing lesser discipline would fail to acknowledge the seriousness of the offenses which Littlejohn committed, would be inconsistent with orders of discipline entered by this Commission in similar cases and would send the wrong message to attorneys regarding the conduct expected of attorneys in this state.
  - c) The protection of the public requires that Littlejohn not be permitted to resume the practice of law until he demonstrates that he understands his obligations to the Bar and to his clients and he demonstrates that he is not suffering from any mental or physical condition that prevents him from practicing law competently.

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

#### ORDER OF DISCIPLINE

1. The license of the Defendant, Darwin Littlejohn, is hereby suspended for two years, effective 30 days after the date that this Order is served upon him.
2. Prior to filing a petition for reinstatement, Littlejohn shall demonstrate that:

- a) He obtained a mental and physical examination within 6 months of seeking reinstatement by a psychiatrist approved by the N.C. State Bar and complied with all treatment recommendations of the psychiatrist during the period of suspension of his law license. The evaluation shall be obtained at Littlejohn's expense.
- b) The psychiatrist has submitted a written report to the N.C. State Bar confirming that Littlejohn is not suffering from a mental or physical condition that substantially impairs his judgment or competence as an attorney.
- c) He executed a written release authorizing the Counsel of the N.C. State Bar to contact the psychiatrist who performed the evaluation and to obtain copies of his medical records relating to his evaluation and treatment from the psychiatrist and all other treating medical personnel.
- d) He has responded to all communications from the N.C. State Bar within 30 days of receipt or the deadline stated in the communication, whichever is earlier.
- e) He has not violated the Revised Rules of Professional Conduct or the laws of any state or of the United States.
- f) He properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, Section .0124 of the State Bar Discipline & Disbarment Rules.
- g) He has paid all past due membership fees and penalties owed to the State Bar and has complied with all mandatory continuing legal education requirements.
- h) He has completed 24 hours of continuing legal education courses given by sponsors approved by the N.C. State Bar.
- i) He has refunded all fees determined to be owed in all State Bar fee dispute matters to which he is or has been a party.
- j) He paid the costs of this proceeding within 30 days after service of notice of the costs by the Secretary of the N.C. State Bar.

Signed by the undersigned Chair with the knowledge and consent of the other  
Committee members.

This the 14 day of April, 2004.

Elizabeth C. Bunting  
Elizabeth Bunting, Chair