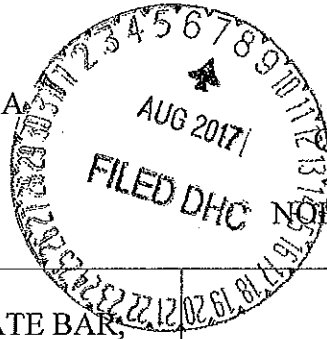


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
16G0744

THE NORTH CAROLINA STATE BAR,
Petitioner

v.

JOHN R. HIBNER, Attorney,
Respondent

ORDER OF
RECIPROCAL DISCIPLINE

Pursuant to the authority vested in me as Chairperson of the Grievance Committee of the North Carolina State Bar by 27 N.C. Admin. Code Chapter 1, Subchapter B, Rules .0105(a)(12) and .0116(b)(4) of the North Carolina State Bar Discipline & Disability Rules, and based upon the record in this matter, the undersigned finds as follows:

1. Respondent, John R. Hibner (“Hibner” or “Respondent”), was admitted to the North Carolina State Bar on January 10, 1997 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.

2. On March 23, 2010, the Appellate Division of the Supreme Court of the State of New York, Second Department, issued an Order suspending Respondent from the practice of law for a period of four (4) years in *In re John R. Hibner*, 73 A.D. 3d 60, 897 N.Y.S.2d 489 (2010). As a basis for its Order, the Court found all nine (9) charges of professional misconduct contained in the petition of the Grievance Committee for the Tenth Judicial District of the State of New York. The sustained charges established that Respondent:

- a. Allowed his professional judgment on behalf of his clients to be affected by his own financial, business, property, or personal interests;
- b. Entered into a business transaction with his clients wherein they had differing interests without obtaining the client’s written consent to the terms and Respondent’s inherent conflict of interest;
- c. Intentionally prejudiced or damaged his clients during the course of their professional relationship;
- d. Engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- e. Engaged in conduct prejudicial to the administration of justice; and

f. Engaged in conduct that adversely reflects on Respondent's fitness as a lawyer (four (4) counts).

3. Pursuant to Rule 8.3(d) of the North Carolina Rules of Professional Conduct, Respondent was required to notify the secretary of the North Carolina State Bar of the New York Court's action in *In re Hibner* no later than 30 days after entry of the order of discipline. Respondent did not notify the North Carolina State Bar of his professional discipline in the State of New York until June 28, 2016.

4. Pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0116(b) of the North Carolina State Bar Discipline & Disability Rules, Respondent on March 10, 2017 was served with the North Carolina State Bar's Notice of Reciprocal Discipline Proceeding ("Notice"). The State Bar's Notice cited the Order of suspension in *In re Hibner*.

5. The State Bar's Notice directed Respondent to inform the North Carolina State Bar's Grievance Committee within 30 days of service of any reason why imposition of the identical discipline by the North Carolina State Bar would be unwarranted. The Notice further advised that if no response was received within 30 days, the Chairperson of the Grievance Committee would sign an order imposing reciprocal discipline.

6. The State Bar on April 6, 2017 received Hibner's response to the Notice. Hibner responded that he did not intend to oppose the proceedings and consented to the imposition of the identical discipline, a four (4) year suspension.

BASED UPON THE FOREGOING FINDINGS, the Chairperson of the Grievance Committee makes the following CONCLUSIONS OF LAW:

1. The North Carolina State Bar has jurisdiction over the subject matter of this proceeding and over the person of John R. Hibner.

2. The State Bar has complied with the procedure for imposition of reciprocal discipline pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, Rule .0116 of the North Carolina State Bar Discipline & Disability Rules.

3. The conduct found by the New York Court constitutes conduct in violation of Rules 1.7, 1.8 and 8.4(c), (d) and (g) of the North Carolina Rules of Professional Conduct and justifies the imposition of reciprocal discipline in this State.

4. The suspension imposed by the New York Court is the equivalent of a suspension as described and set out in N.C. Gen. State. § 84-28(c)(2).

THEREFORE IT IS HEREBY ORDERED THAT:

1. John R. Hibner is hereby SUSPENDED from the practice of law in North Carolina for a period of four (4) years, effective 30 days after this Order is served upon him.

2. Hibner shall surrender his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this Order upon him.

3. Hibner shall comply with all provisions of 27 N.C. Admin. Code 1B § .0124.

4. In accordance with the policy adopted July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued discipline by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to Hibner.

This the 7th day of August, 2017.



DeWitt F. McCarley, Chair
Grievance Committee