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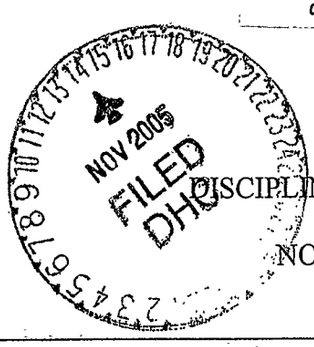

WAKE COUNTY

NORTH CAROLINA

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
05 DHC 48

THE NORTH CAROLINA STATE BAR Plaintiff	)	CONSENT ORDER OF INTERIM SUSPENSION
v.	)	
GAREY M. BALLANCE, ATTORNEY Defendant	)	

THIS MATTER came on to be heard and was heard by the undersigned Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B .0108(a)(7), 1B .0115(d), and the consent of the parties hereto. Based upon the submission of the parties, the Chair 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, Garey Ballance, ("Ballance"), was admitted to the North Carolina State Bar in August 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. During all of the periods relevant hereto, Ballance was engaged in the practice of law in Warren County, North Carolina in the law office of his father, Frank Ballance ("Frank Ballance") and/or served as a district court judge in the 9th District.

4. On or about March 29, 2005, Ballance entered a plea of guilty in the United States District Court for the Eastern District of North Carolina to charges of failure to file his federal income tax return for the year 2000.

5. On October 12, 2005, the federal court accepted Ballance's guilty plea and he was sentenced to serve a nine month prison term, beginning no later than January 2, 2006.

6. Based on the offense of which he was convicted and his impending imprisonment, Ballance consents to an interim suspension of his law license pursuant to 27 NCAC 1B .0115(d) of the Discipline & Disbarment Rules of the N.C. State Bar.

7. The interim suspension of Ballance's law license should be terminated promptly after he completes the service of his prison sentence to ensure that his disciplinary case is prosecuted promptly and that the length of the interim suspension does not exceed the ultimate discipline imposed by the Disciplinary Hearing Commission.

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

CONCLUSIONS OF LAW

1. The Chair has jurisdiction over the person of the defendant and over the subject matter of this proceeding.

2. The defendant has voluntarily consented to entry of this order after consulting with counsel of his choice.

3. The defendant's license to practice law in North Carolina should be suspended until 45 days after he serves the active portion of the prison sentenced imposed by the United States District Court.

4. The suspension of the defendant's law license should begin effective November 3, 2005.

5. The order of interim suspension shall not foreclose or bar the hearing committee assigned to hear the disciplinary charges against defendant from imposing whatever order of discipline it deems appropriate, based upon the evidence introduced at trial. If the hearing committee ultimately imposes an active suspension of Ballance's license, the period of this interim suspension shall be given full credit toward that suspension.

WHEREFORE, based upon the foregoing findings of fact and conclusions of law and the consent of the parties, the Chair enters the following:

ORDER OF INTERIM SUSPENSION

1. The law license of the defendant, Garey Ballance, shall be and hereby is SUSPENDED, beginning effective November 3, 2005 and ending 45 days after the defendant serves the active portion of the prison sentence imposed by the United States District Court.

This the 9th day of November, 2005.

F. Lane Williamson, Chair
Disciplinary Hearing Commission

Seen and consented to:

Douglas J. Brocker
Defendant's Counsel

Garey M. Ballance
Defendant

Carolin Bakewell
Plaintiff's Counsel