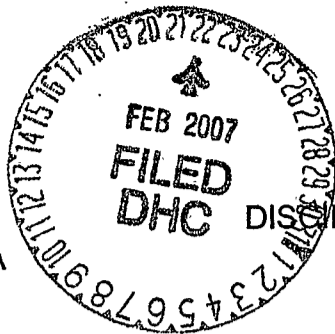


WAKE COUNTY
NORTH CAROLINA



16355
BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
07 DHC 1

THE NORTH CAROLINA STATE BAR)
Plaintiff)

v.)

W. RICKERT HINNANT, ATTORNEY)
Defendant)

CONSENT ORDER
OF DISCIPLINE

THIS MATTER was considered by a hearing committee of the Disciplinary Hearing Commission composed of Sharon Alexander, Chair, T. Richard Kane and Rebecca Brownlee pursuant to 27 N.C.A.C. 1B §.0114 of the Rules and Regulations of the North Carolina State Bar. The Defendant, W. Rickert Hinnant, was represented by Dudley A. Witt. The Plaintiff was represented by Deputy Counsel Margaret Cloutier. Defendant has agreed to waive a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this order and to the discipline imposed. Defendant stipulates that he waives any right to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this order.

Based upon the consent of the parties, 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, W. Rickert Hinnant ("Hinnant" or "Defendant"), was admitted to the North Carolina State Bar in March 1989 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. Hinnant was properly served with the summons and complaint herein.

4. During some or all of the periods relevant hereto, Hinnant was engaged in the practice of law in Winston-Salem, North Carolina.

5. Prior to January 2006, Hinnant undertook to defend an entity known as Algemene AFW N.V. ("Algemene") and other defendants named in a civil action in Catawba County Superior Court.

6. In early January 2006, Hinnant offered to pay the plaintiff in the case approximately \$850,000 to settle the matter, despite the fact that he did not have his clients' authority to extend a settlement offer in that amount.

7. Thereafter, the plaintiff accepted the settlement offer.

8. Hinnant signed his clients' names to the settlement agreement, without his clients' knowledge or consent.

9. Thereafter, Hinnant told Algemene and his other clients that he believed that the case could be settled for \$850,000. Hinnant did not tell his clients that in fact he had already signed a settlement agreement.

10. Algemene objected to some of the terms of the settlement. In the meantime, the first payment due to the plaintiffs was not made.

11. On February 17, 2006, the plaintiff's attorneys moved for judgment and moved to attach property belonging to the defendants.

12. On February 20, 2006, a hearing was held on the plaintiff's motion for judgment. Hinnant appeared at this hearing but did not reveal to the court or opposing counsel that he had entered the settlement agreement without his clients' consent.

13. Hinnant did not tell his clients about the February 17 motion or the February 20, 2006 hearing.

14. On or about February 21, 2006, when the plaintiff began collection activities, Hinnant told his clients what had he had done.

15. Algemene and the other defendants hired new counsel, who then filed a motion seeking relief from the judgment.

16. On March 13, 2006, a hearing was held on the motion for relief from the judgment in Catawba County Superior Court. Hinnant testified truthfully at the hearing.

17. The trial court denied Algemene's motion.

Based upon the foregoing Findings of Fact, 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, W. Rickert Hinnant, and the subject matter of this proceeding.

2. Hinnant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) as follows:

a) By offering to settle the case against Algemene and his other clients and by signing his clients' names to the settlement agreement without their knowledge and consent, Hinnant engaged in dishonest conduct in violation of Rule 8.4(c) and failed to abide by his clients' decision regarding whether to settle a matter in violation of Rule 1.2(a)(1);

b) By failing to reveal to Algemene and his other clients that he had settled the case, and that the plaintiffs were seeking judgment and to attach property belonging to the clients, Hinnant failed to communicate with his clients in violation of Rule 1.4(a)(3), failed to explain a matter to the extent reasonably necessary to permit his clients to make informed decisions about the representation in violation of Rule 1.4(b) and engaged in dishonest conduct in violation of Rule 8.4(c); and

c) By failing to reveal to the court during the February 20 hearing that he had settled the case without his clients' consent and signed the settlement agreement without their knowledge, Hinnant engaged in dishonest conduct in violation of Rule 8.4(c).

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

FINDINGS REGARDING DISCIPLINE

1. At the time of the misconduct described herein, Hinnant was suffering from an undiagnosed bipolar disorder.

2. Hinnant voluntarily ceased practicing law on March 17, 2006 and promptly sought counseling. Hinnant's bipolar disorder was discovered as a result of this counseling and he has followed his physician's treatment recommendations since the disorder was diagnosed. Hinnant's bipolar disorder likely contributed to his misconduct.

3. At the time of the misconduct, Hinnant was also experiencing a great amount of stress and anxiety stemming from severely strained relationships within his immediate family.

4. Hinnant's misconduct is aggravated by the following factors:

- a. substantial experience in the practice of law; and
- b. multiple offenses.

5. Hinnant's misconduct is mitigated by the following factors:

- a. absence of a prior disciplinary record;
- b. personal and emotional problems;
- c. good faith efforts to rectify the consequences of his conduct by testifying truthfully and voluntarily at a hearing seeking to set aside the judgment against his clients;
- d. full and free disclosure to the hearing committee and cooperative attitude toward these proceedings;
- e. good character or reputation;
- f. remorse; and
- g. lack of evidence that this conduct was anything other than an isolated incident.

6. The mitigating factors outweigh the aggravating factors.

7. Defendant's conduct harmed his clients in that Algamene was unsuccessful in its attempts to set aside the judgment against it entered as a result of Defendant's actions.

8. Defendant's conduct also has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows disdain for his obligations as an attorney and officer of the court to be truthful at all times. Such erosion of public confidence in attorneys tends to sully the

reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.

9. The Hearing Committee has carefully considered all of the different forms of discipline available to it and finds that any of the sanctions less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar. For the nature of Defendant's deceitful conduct and the protection of the public this committee would consider an active suspension of Defendant's license to practice law if it were not for the evidence of Defendant's subsequent efforts to rectify the consequences of his actions, his undiagnosed mental health issues and his prompt and continued medical and psychological treatment, and consideration of the apparent isolated incidence of his conduct. Given those circumstances, the Hearing Committee finds and concludes that the public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant designed to ensure protection of the public and Defendant's continued compliance with the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, all found by clear, cogent and convincing evidence, the Hearing Committee enters the following

ORDER OF DISCIPLINE

1. The license to practice law in the State of North Carolina of Defendant W. Rickert Hinnant is hereby suspended for five years from the date this Order of Discipline is served upon him. The period of suspension is stayed for five years as long as Defendant complies and continues to comply with the following conditions:

a. Defendant shall continue with all prescribed medical and/or psychiatric treatments as determined by his current treating psychiatrist or mental health professional. In the event Defendant determines it is necessary or appropriate to change medical care providers at any time, Defendant first shall submit the name and credentials of his proposed treatment professional to the Office of Counsel for approval, which approval shall not be unreasonably withheld. Defendant will direct his treating health care professional to provide semi-annual reports to the Office of Counsel describing in detail Defendant's current treatment regimen, compliance, and prognosis or treatment plan for the next six months. Such reports will be provided by each July 15 and January 15 during the stay. Defendant may elect to have his treatment program supervised by the North Carolina State Bar Lawyer Assistance Program (LAP). If he does so elect, he will cooperate fully with LAP to develop an appropriate treatment plan under the

supervision of LAP, and will comply with the requirements of such treatment plan. Within thirty days of service of this order upon him, Defendant will deliver to the State Bar Office of Counsel written waivers and releases authorizing the Office of Counsel to confer with Defendant's treating health care professional and/or LAP for the purpose of determining if Defendant has cooperated and complied with all requirements of the prescribed treatment plan. Defendant will not revoke such waivers and releases during the period of stay. All expenses of treatment and any reports provided to the Office of Counsel will be at Defendant's sole expense;

b. No later than thirty days from the effective date of this order, Defendant shall contract with a licensed North Carolina attorney who maintains a private law practice in the judicial district in which Defendant maintains his practice to serve as a practice monitor. Defendant will first secure the approval of his proposed practice monitor by the Office of Counsel of the North Carolina State Bar, which approval will not be unreasonably withheld. Defendant will personally meet with his practice monitor at least once each calendar quarter, beginning in April 2007, during the first two years of the stayed suspension. Defendant will keep the monitor apprised of all open and pending client matters and the status of all such matters. By each April 15, July 15, October 15, and January 15 during the first two years of the stayed suspension, Defendant will deliver to the Office of Counsel written reports signed by the practice monitor confirming that the meetings are occurring and that Defendant is reporting on the status of Defendant's client matters to the practice monitor and that the practice monitor is satisfied with the status of such client matters. Defendant will be solely responsible for all costs associated with the monitoring of his law practice;

c. Within the first twelve months of the stay, Defendant shall complete at his own expense a course of training in law office management approved by the North Carolina State Bar and shall provide written proof of successful completion of the course to the Office of Counsel within ten days of completing the course;

d. During each year of the stayed suspension, Defendant shall complete at least 12 hours of Continuing Legal Education (CLE) approved by the Board of Continuing Legal Education earned by attending courses of instruction devoted exclusively to topics relating to trial preparation. These requirements shall be in addition to any CLE required of every active member of the Bar as enumerated in 27 N.C.A.C. 1D §.1518;

e. Defendant shall not violate any state or federal laws or any provisions of the Revised Rules of Professional Conduct during the period of the stayed suspension;

f. Defendant shall respond to all State Bar requests for information by the earlier of the deadline stated in the communication or within 30 days, as required by Rule 8.1(b) of the Revised Rules of Professional Conduct;

g. Defendant shall timely comply with all State Bar membership and Continuing Legal Education requirements; and

h. Defendant shall keep the North Carolina State Bar membership department advised of his current home and business street (not P.O. Box) addresses and telephone numbers.

2. If the stay granted herein is revoked or the suspension of Defendant's license is activated for any reason, before seeking reinstatement of his license to practice law, Defendant must show by clear, cogent and convincing evidence that he has complied with each of the following conditions:

a. Submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty days after the date of the order lifting the stay and/or activating the suspension of his law license;

b. Complied with all provisions of 27 N.C.A.C. 1B § .0124 of the State Bar Discipline and Disability Rules on a timely basis following the order lifting the stay and/or activating the suspension of his law license;

c. Demonstrated that he is not suffering from any disability, addiction or condition that would impair his ability to competently engage in the practice of law;

d. Provided the Office of Counsel with releases to obtain and review his medical records, including psychological and mental health evaluations, and to interview his medical care providers;

e. If he had not previously completed the requirements of paragraph 1(c) above, then within the twelve months preceding his petition for reinstatement, completed at his own expense a course of training in law office management approved by the North Carolina State Bar and provided written proof of successful completion of the course to the Office of Counsel;

f. Within the twelve months preceding his petition for reinstatement, completed at least 12 hours of Continuing Legal Education (CLE) approved by the Board of Continuing Legal Education earned by attending courses of instruction devoted exclusively to topics relating to trial preparation. These requirements shall be in addition to any CLE required by the Rules and Regulations of the North Carolina State Bar;

g. Paid all due and owing membership fees, Client Security Fund assessments and costs assessed by the DHC or the State Bar and complied with all continuing legal education requirements imposed by the State Bar; and

h. Complied with the conditions set forth in Paragraph 1(e) through (h) above.

3. Defendant is taxed with the costs of this action as assessed by the Secretary which shall be paid within thirty days of service of the notice of costs upon the Defendant.

Signed by the undersigned Chair of the Hearing Committee with the full knowledge and consent of the other Committee members, this the 20th day of February, 2007.

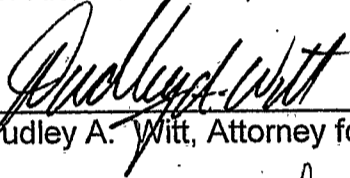


Sharon B. Alexander, Chair
Disciplinary Hearing Committee

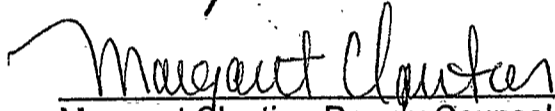
CONSENTED TO:



W. Rickert Hinnant, Defendant



Dudley A. Witt, Attorney for Defendant



Margaret Cloutier, Deputy Counsel
Attorney for Plaintiff