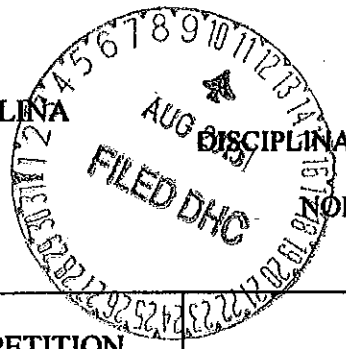

+STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 12 DHC 14 & 15 BSR 5
IN THE MATTER OF THE PETITION FOR STAY OF SUSPENSION OF: DAWN DONLEYCOTT JOHNSON WARREN, Petitioner	ORDER DENYING PETITION FOR STAY

THIS MATTER was heard on July 31, 2015 by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, Walter E. Brock, Jr. and Percy L. Taylor upon Petitioner Dawn Donleycott Johnson Warren's Petition for a stay of the remaining period of her suspension. The North Carolina State Bar was represented by Mary D. Winstead. Petitioner appeared *pro se*.

Based upon the record and the evidence presented, the Hearing Panel makes the following:

FINDINGS OF FACT

1. On September 19, 2012, the Disciplinary Hearing Commission (DHC) entered an Order of Discipline in the case of The North Carolina State Bar v. Dawn Donleycott Johnson (now Warren), 12 DHC 14.

2. Petitioner was served with the Order of Discipline on October 1, 2012.

3. Pursuant to 27 N.C. Admin. Code 1B § .0124(c), the effective date of the Order of Discipline, and accordingly the discipline imposed thereby, was October 31, 2012, 30 days after service of the Order of Discipline upon Petitioner.

4. By and through the Order of Discipline, the DHC suspended Petitioner for three years. The Order of Discipline provided that Petitioner could apply for a stay of the remaining period of suspension after serving one year of the active suspension.

5. On May 22, 2015, Petitioner filed a verified Petition for Order Staying Suspension and Reinstatement. Therein, she asserted that she has complied with the conditions set forth in 12 DHC 14.

6. On June 22, 2015, the State Bar filed an Objection to Petition for Stay.

7. 27 N.C. Admin. Code, 1B § .0125(b)(3) requires that a suspended attorney seeking reinstatement prove by clear, cogent, and convincing evidence compliance with each of the enumerated reinstatement requirements including compliance with Rule .0124 and all applicable orders of the Disciplinary Hearing Commission.

8. Rule .0124 ("Obligations of Disbarred or Suspended Attorneys"), governs a suspended lawyer's wind-down of her law practice during the 30 days before the suspension takes effect.

9. Specifically, Rule .0124(d) provides: "Within 10 days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney will file with the secretary an affidavit showing that he or she has fully complied with the provisions of the order, with the provisions of this section, and with the provisions of all other state, federal, and administrative jurisdictions to which he or she is admitted to practice. The affidavit will also set forth the residence or other address of the disbarred or suspended member to which communications may thereafter be directed."

10. The Order of Discipline entered by the Disciplinary Hearing Commission provided, among other things, that Petitioner was required to:

a. submit her law license and membership card to the Secretary of the State Bar within thirty days following service upon her of the Order of Discipline;

b. file an affidavit with the Secretary of the State Bar within 10 days of the effective date of the Order of Discipline certifying that she had complied with the wind down rule; and

c. pay the administrative fees and costs of this action within thirty days of the statement of costs being served upon her.

11. The Order of Discipline further provided that after one year of active suspension, the remainder of the suspension may be stayed only upon the filing of a verified petition and Petitioner establishing by clear, cogent, and convincing evidence that she had complied with Rule .0125(b) and certain additional conditions including that she:

a. within six months prior to any application for a stay, received a comprehensive psychiatric evaluation by a board certified psychiatrist who was approved in advance by the Office of Counsel of the North Carolina State Bar and has complied with any recommended treatment, including, but not limited to, psychotherapy;

b. provided the State Bar with written authorization allowing the State Bar to provide to the treatment providers(s) information and documents obtained during the disciplinary process that the State Bar deems relevant to Defendant's mental health issues; and

c. made restitution to Ricky Moore in the amount of $10,000.

12. Petitioner's testimony established the following:

a. Petitioner did not submit her law license and membership card to the Secretary of the State Bar within thirty days following service upon her of the order of Discipline nor did she file any document with the Secretary explaining her inability to comply with this requirement;

b. Petitioner did not file an affidavit with the Secretary of the State Bar within 10 days of the effective date of the Order of Discipline certifying that she had complied with the affidavit requirements of Rule .0124;

c. Petitioner did not pay the administrative fees and costs of this action within thirty days of the statement of costs being served upon her;

d. At the time she submitted the petition, Petitioner provided the State Bar with a letter from a psychiatrist indicating that Petitioner had been seen for an initial psychiatric evaluation and opining that Petitioner did not appear to suffer from any mental, psychological condition that would significantly impair her professional judgment or performance;

e. At the time she submitted the petition, Petitioner had not provided the State Bar with written authorization allowing the State Bar to provide to the treatment providers(s) information and documents obtained during the disciplinary process that the State Bar deemed relevant to Petitioner's mental health issues; and

f. At the time she submitted the petition, Petitioner provided only her uncorroborated assertion that she had made the required payment to Ricky Moore.

13. Petitioner offered into evidence: 1) another letter from the psychiatrist stating that she had reviewed the medical records provided by the State Bar, met with Petitioner again, and affirming her opinion regarding Petitioner's mental health; 2) Petitioner's affidavit filed July 28, 2015, and 3) documentation showing Petitioner paid Ricky Moore $10,000 by cashier's check in 2015.

14. By failing to comply with the Order of Discipline and the applicable Discipline and Disability Rules, Petitioner has exhibited conduct consistent with conduct for which this Hearing Panel imposed discipline in 2012.

Based on 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, Dawn Donleyctt Johnson Warren, and the subject matter of this proceeding.

2. Petitioner failed to show by clear, cogent, and convincing evidence that she satisfied the necessary requirements contained in the Order of Discipline and in 27 N.C. Admin. Code, 1B § .0125(b)(3) in order to be eligible for a stay of her suspension.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel enters the following:

ORDER

It is hereby ordered that Petitioner's Petition for Order Staying Suspension and Reinstatement is DENIED.

Signed by the Chair with the consent of the other Hearing Panel members, this the 11th day of August, 2015.

Fred M. Morelock, Chair
Disciplinary Hearing Panel