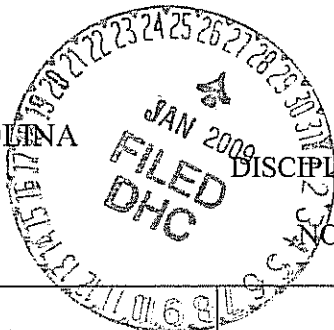


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
05 DHC 42

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

FREDRICK R. PIERCE, Attorney,

Defendant

CONSENT
ORDER LIFTING STAY AND
ACTIVATING SUSPENSION

Plaintiff's Motion for Order to Show Cause was considered by a hearing committee of the Disciplinary Hearing Commission composed of T. Richard Kane, Chair, M. H. Hood Ellis, and Pamela U. Weis pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, §§ .0109 and .0114(x). Margaret T. Cloutier represented the Plaintiff, the North Carolina State Bar. The Defendant, Fredrick R. Pierce, was represented by Alan M. Schneider. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline. Based upon the stipulations of fact and the consent of the parties, the Hearing Committee makes the following findings of fact by clear, cogent, and convincing evidence:

FINDINGS OF FACT

1. A Hearing Committee entered a Consent Order of Discipline in this case on April 17, 2006 that imposed a two year suspension stayed for three years, such stay conditioned upon compliance with the terms stated therein.
2. The Consent Order of Discipline was served on Defendant's attorney on April 19, 2006.
3. The condition of the stay listed in paragraph 1(b) of the Consent Order of Discipline states as follows:

Defendant will respond to all letters of notice and requests for information from the N.C. State Bar by the deadlines stated in the communication.
4. Defendant has not responded to all communications from the North Carolina State Bar in a timely manner, specifically failing to timely respond to the Letters of

Notice served upon him in grievance files involving his clients Scott, Guy, Wright, Johnson and White.

5. The condition of the stay listed in paragraph 1(c) of the Consent Order of Discipline states as follows:

Defendant will timely pay all State Bar membership dues and Client Security Fund assessments.

6. Defendant paid his 2006 membership dues and Client Security Fund assessments, which should have been paid by June 30, 2006, on October 16, 2006 and paid his 2007 membership dues and Client Security Fund assessments, which should have been paid by June 30, 2007, on October 3, 2007. Defendant has not yet paid his 2008 membership fees and Client Security Fund assessments as of the date of this order.

7. The condition of the stay listed in paragraph 1(c) of the Consent Order of Discipline states as follows:

Defendant will timely comply with his State Bar continuing legal education requirements and pay all fees and costs assessed by the applicable deadline.

8. Defendant attended six hours of CLE in 2006, all of which were applied to his deficit from 2005. Defendant attended 15.50 hours of CLE in 2007 which hours were all attributed to his deficit for 2006. Defendant has failed to report four general hours for 2007. Defendant returned to the State Bar his 2007 CLE Annual Report Form, due February 29, 2008, on April 4, 2008. Defendant has not paid the late filing fee assessed for the late filing of the 2007 form.

9. The condition of the stay listed in paragraph 1(g) of the Consent Order of Discipline states as follows:

Defendant will personally meet with his practice monitor at least once each quarter beginning in April 2006 during the period of stayed suspension. Defendant will keep the monitor apprised of all open and pending client matters and the status of all such matters. Within fifteen (15) days after the end of each calendar quarter of each year of the stayed suspension, Defendant will deliver to the Office of Counsel a written report 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.

10. Defendant has submitted no quarterly written reports signed by the practice monitor to the Office of Counsel since November 2006.

11. The condition of the stay listed in paragraph 1(h) of the Consent Order of Discipline states as follows:

Defendant shall complete within the first twelve (12) months of the stay, at his own expense, a course of training of at least eight (8) hours in law office management approved by the North Carolina State Bar, and expressly waive any right he might otherwise have as to confidential communication with the management training program in regard to the prescribed course of training. Within ten days of completion of the management training program Defendant will be responsible for seeing that the provider of the training course has certified to the Bar that he has satisfactorily completed the course and paid the costs of the course.

12. Defendant has not provided to the North Carolina State Bar evidence of having taken a law office management training course.

Based upon these findings of fact, the Hearing Committee hereby enters the following:

CONCLUSIONS OF LAW

1. The Disciplinary Hearing Commission retained jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension and this matter is properly before this hearing committee

2. Under the terms of the Consent Order of Discipline and §.0114(x) cited above, Defendant's failure to comply with the above cited paragraphs of the Consent Order of Discipline causes the stay of the suspension to be lifted and the suspension activated.

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. In considering the activation of the suspension in the Consent Order of Discipline in this matter, the Hearing Committee believes it would best protect the public if Defendant were to complete the provisions of the original order, particularly regarding a practice monitor and law office management training, upon resuming the practice of law.

Based on the foregoing Findings of Fact, Conclusions of Law and Additional Findings Regarding Discipline, it is hereby

ORDERED:

1. The suspension of Defendant's license provided in the Consent Order of Discipline entered by the previously constituted Hearing Committee on April 17, 2006 is hereby activated for a period of eighteen months effective thirty days after service of this Order upon Defendant.

2. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than thirty days following service of this Order on Defendant.

3. Defendant shall comply with the wind down provisions contained in 27 N.C.A.C. 1B, §.0124, the North Carolina State Bar Discipline and Disability Rules. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within ten days of the effective date of this Order of Discipline certifying he has complied with the wind down rule.

4. Within fifteen days of the effective date of this Order, Defendant will provide the State Bar with a street address and mailing address at which clients seeking return of their files and records in Defendant's possession or control may obtain such files and records and at which the State Bar may serve any notices or other matters upon him.

5. After the completion of eighteen months of active suspension of his license, Defendant may apply for a stay of the balance of the suspension upon filing a petition with the Secretary of the North Carolina State Bar at least thirty days before any proposed effective date of the stay and demonstrating the following by clear, cogent and convincing evidence:

a. That Defendant has kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten days of such change;

b. That Defendant has responded to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner, and has participated in good faith in the State Bar's fee dispute resolution process for any petition received after the effective date of this Order;

c. That Defendant has not violated the Revised Rules of Professional Conduct or the laws of the United States or any state or local government during his suspension;

d. That Defendant has properly wound down his law practice and complied with the requirements of 27 N.C.A.C. 1B, §.0124, the North Carolina State Bar Discipline and Disability Rules;

e. That Defendant has complied with the requirements of 27 N.C.A.C. 1B, §.0125(b), the North Carolina State Bar Discipline and Disability Rules;

f. That Defendant has paid the costs of this proceeding in accordance with the statement of costs within sixty days of service upon him by the Secretary of the North Carolina State Bar; and

i. That Defendant has complied with all applicable provisions of the Order in 08 DHC 3.

6. If Defendant successfully seeks a stay of the suspension of his law license, *such stay will continue in force for a period of two years from the date of the order implementing the stay* and only as long as he complies with the conditions contained in paragraphs 1(a) through (h) of the Consent Order of Discipline entered April 17, 2006 and complies with all applicable provisions of the Order in 08 DHC 3.

7. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 6 above, the stay of the suspension may be lifted as provided in §.0114(x) of the North Carolina State Bar Discipline and Disability Rules.

8. If Defendant does not seek a stay of the active portion of the suspension or if some part of the suspension is stayed and thereafter the stay is revoked, before seeking reinstatement of his license to practice law Defendant must

a. if not already completed during a stay of the suspension. complete, at his own expense, a course of training of at least eight (8) hours in law office management approved by the North Carolina State Bar, expressly waive any right he might otherwise have as to confidential communication with the management training program in regard to the prescribed course of training, and provide certification from the provider of the training course that Defendant has satisfactorily completed the course and paid the costs of the course, and

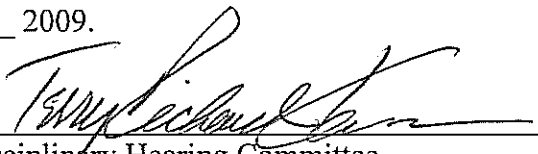
b. comply with the conditions in paragraphs 3(a) through (e) of the April 2006 Consent Order of Discipline and all applicable provisions of the Order in 08 DHC 3.

9. The terms of this Order shall run concurrently with the terms of the Order of Discipline in 08 DHC 3.

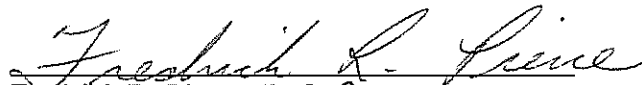
10. Defendant is taxed with the costs of this action as assessed by the Secretary.

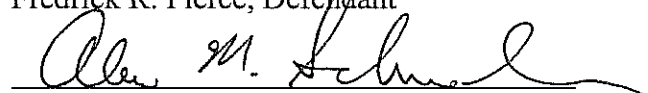
Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

This the 26th day of JANUARY 2009.


Chair, Disciplinary Hearing Committee

CONSENTED TO:


Fredrick R. Pierce, Defendant


Alan M. Schneider, Attorney for Defendant


Margaret T. Cloutier, Deputy Counsel
Attorney for Plaintiff