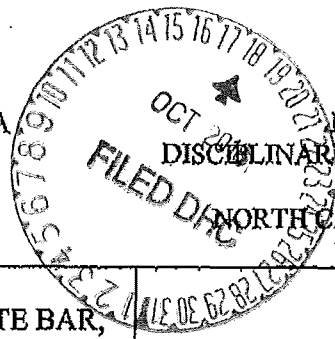


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 17 DHC 22SC

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

CONSENT ORDER

ROBERT M. DONLON, Attorney,

Defendant

Defendant, Robert M. Donlon, was ordered to appear and show cause why the stay of the suspension imposed by the Order of Discipline entered in this case on 29 August 2017 should not be lifted and the suspension activated. This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, N. Hunter Wyche, Jr., and Christopher R. Bruffey pursuant to 27 N.C. Admin. Code 1B.0118 (formerly codified at .0114(x)). Plaintiff, the North Carolina State Bar, was represented by Maria J. Brown. Defendant appeared and was represented by F. Lane Williamson. Defendant waives 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 disposition imposed. By consenting to the entry of this order, Defendant waives any right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based upon the pleadings and the consent of the parties, the Hearing Panel hereby finds by the greater weight of the evidence the following

FINDINGS OF FACT

1. On 29 August 2017, the DHC entered a consent order of discipline finding that Defendant violated the Rules of Professional Conduct by threatening to expose embarrassing or incriminating information about the attorneys in a firm that had brought a lawsuit against him, in order to intimidate them into paying the legal fees he incurred defending the suit.

2. The 29 August 2017 Consent Order of Discipline suspended Defendant's license to practice law for one year and stayed the suspension for two years on condition that Defendant comply with the requirements specified in the order.

3. By its terms, the Consent Order of Discipline was effective 30 days after it was served on Defendant. Defendant was served with the order on 30 August 2017.

4. The Order of Discipline provided that, in order to remain eligible for a stay of the suspension, Defendant was required, among other things, to:

- (a) Enter into an alcohol monitoring/reporting program within 30 days of the date of the Order, undergo monthly screening, and authorize the monitoring program to report his screening results to the State Bar;
- (b) Undergo evaluation by a clinician specializing in substance abuse and addiction within 30 days of the date of the Order and provide the Office of Counsel with a written report of the clinician's findings and treatment recommendations;
- (c) Comply with all treatment recommendations and ensure that each of his treatment providers sends a written report regarding the treatment to the Office of Counsel each quarter, due on January 15, April 15, July 15, and October 15;
- (d) Timely comply with all State Bar membership and CLE requirements;
- (e) Provide the Office of Counsel with a current address and telephone number and notify the State Bar within 10 days of any changes to his contact information;
- (f) Respond to all communications from the North Carolina State Bar within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and
- (g) Pay the costs and administrative fees of this disciplinary action within thirty days of service of the notice of costs upon him.

5. Defendant has not entered into an alcohol monitoring program.

6. Defendant has not undergone evaluation by a clinician specializing in substance abuse and addiction.

7. The Office of Counsel has not received a written report of a clinician's evaluation of Defendant with findings and treatment recommendations.

8. No quarterly reports have been received by the Office of Counsel from Defendant's treatment providers.

9. As of the effective date of the Order of Discipline, Defendant had not filed his 2016 Annual CLE Report form or completed the requisite number of CLE hours (1

hour of substance abuse/mental health, 2 hours of ethics/professionalism, and 6.25 general hours).

10. On 19 May 2017, the CLE department of the State Bar sent Defendant a Notice to Show Cause regarding this deficiency, indicating that he was to file his 2016 Annual Report Form, provide proof of his completion of the requisite number of CLE hours, and pay the \$200.00 in penalty fees.

11. The CLE department of the State Bar sent the Notice to Show Cause to Defendant via certified mail to the address on file with the State Bar's Membership department, and the mailing was returned.

12. On 3 October 2017, another Notice to Show Cause was sent via email to the email address for Defendant on file with the State Bar's Membership department. The email was rejected by the server as naming an invalid recipient.

13. Defendant was to file his 2017 CLE Annual Report Form and provide proof of his completion of the requisite number of hours by 28 February 2018.

14. Defendant did not comply with his 2017 CLE requirements by 28 February 2018, resulting in the imposition of a \$75 penalty fee.

15. On 1 June 2018, the CLE department of the State Bar sent Defendant a Notice to Show Cause regarding his failure to timely file his 2016 and 2017 CLE Annual Report Forms, complete the requisite number of CLE hours (1 hour of substance abuse/mental health, 4 hours of ethics/professionalism, and 16.25 general hours), and pay the \$400 in penalty fees.

16. The CLE department of the State Bar sent the Notice to Show Cause to Defendant via certified mail to the address on file with the State Bar's Membership department, and the mailing was returned.

17. Defendant has not complied with his 2016 or 2017 CLE requirements or paid the penalty fees due to the State Bar's CLE department.

18. Defendant has not updated his contact information with the State Bar's Membership department since July 2016.

19. Defendant did not provide the Office of Counsel with his current mailing address at any point after entry of the Consent Order of Discipline.

20. Defendant called the Office of Counsel on 23 October 2017 and left a message in which he provided a return telephone number of (704) 506-3171.

21. Attempts to return Defendant's call at that number resulted in a recorded message indicating that the telephone number had calling restrictions that prevented completion of the call.

22. On 18 September 2017, Defendant, through counsel, was served with the notice of costs of this disciplinary action.

23. Defendant has not paid the costs and administrative fees of this disciplinary action.

24. Defendant was admitted into a residential alcohol treatment program on 27 August 2018 and is scheduled to complete his treatment on 17 November 2018.

25. Defendant's failure to comply with the conditions of the stay of his suspension as required by the Order of Discipline requires activation of the suspension of his law license.

Based upon the foregoing Findings of Fact and with the consent of the parties, the Hearing Panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Panel has jurisdiction over Defendant, Robert M. Donlon, and over the subject matter of this proceeding.

2. Defendant failed to comply with the conditions of the stay of his suspension as follows:

- a. By failing to enter into an alcohol monitoring/reporting program within 30 days of the date of the Order, undergo monthly screening, and authorize the monitoring program to report his screening results to the State Bar;
- b. By failing to undergo evaluation by a clinician specializing in substance abuse and addiction within 30 days of the date of the Order and provide the Office of Counsel with a written report of the clinician's findings and treatment recommendations;
- c. By failing to comply with all treatment recommendations and ensure that each of his treatment providers sends a written report regarding the treatment to the Office of Counsel each quarter by January 15, April 15, July 15, and October 15;
- d. By failing to timely comply with all State Bar membership and CLE requirements;

- e. By failing to provide the Office of Counsel with a current address and telephone number and notify the State Bar within 10 days of any changes to his contact information;
- f. By failing to respond to all communications from the North Carolina State Bar within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and
- g. By failing to pay the costs and administrative fees of this disciplinary action within thirty days of service of the notice of costs upon him.

3. These violations warrant lifting the stay and activating Defendant's suspension.

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

ORDER

1. The stay of Defendant's suspension is lifted and the suspension previously imposed is activated. This order and the suspension imposed herein are effective 30 days after service of this order upon Defendant.

2. All costs and administrative fees of this action are taxed to Defendant. Defendant must pay the costs of this show cause action within 30 days of service upon him of the statement of costs by the Secretary.

3. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following the date that this Order is served upon him. Defendant shall comply with the wind down provisions contained in Rule .0128 of the North Carolina State Bar Discipline and Disability Rules.

4. After no less than six months of active suspension, Defendant may apply to have the remainder of the one-year suspension stayed. The period of the stay will be two years. Defendant may apply for the stay by demonstrating in his petition for reinstatement his compliance with the requirements of Rule .0129(b) of the North Carolina State Bar Discipline and Disability Rules and the requirements for reinstatement contained in paragraph 4 (and its subparagraphs) on page 7-8 of the Order of Discipline, with the following modification and additional condition:

- a. Although paragraph 4(d) of the Order of Discipline requires Defendant to demonstrate that he has abstained from all alcohol and illicit drug use or consumption and has not taken any prescription or controlled substances other than as authorized by his treating physician for at least one year, Defendant may apply for a stay of the remainder of his suspension by

demonstrating his abstention from the substances described above during the entire period of active suspension; and

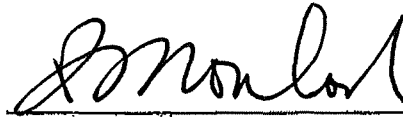
- b. Defendant must provide to the Office of Counsel written or documentary evidence establishing that Defendant is not then suffering from any mental or physical condition that significantly impairs his professional judgment, performance, or competence as an attorney and which meets all of the following criteria: (1) dated no earlier than one month prior to the date of Defendant's petition for reinstatement, (2) signed by a provider from whom Defendant has been receiving ongoing treatment or a licensed psychologist who has conducted a comprehensive psychological evaluation of Defendant, and (3) accompanied by sufficient releases to permit the Office of Counsel to make direct, meaningful inquiry of the treatment provider or evaluator.

5. If any portion of the one-year suspension is stayed, Defendant's active status for the two-year stay period shall be subject to, and contingent upon compliance with, the terms of the stayed suspension set forth in paragraph 2 and its subparagraphs on pages 5-7 of the Order of Discipline.

6. If Defendant is not reinstated to active status prior to the expiration of the one year suspension period, then, before Defendant may be reinstated to active status, he must satisfy the requirements of Rule .0129(b) of the North Carolina State Bar Discipline and Disability Rules and all requirements for reinstatement contained in paragraph 4 and its subparagraphs on page 7-8 of the Order of Discipline, including demonstrating his abstention from the substances described in paragraph 4(d) for the period of at least one year, and with the following additional condition:

- a. Defendant must provide to the Office of Counsel written or documentary evidence establishing that Defendant is not then suffering from any mental or physical condition that significantly impairs his professional judgment, performance, or competence as an attorney and which meets all of the following criteria: (1) dated no earlier than one month prior to the date of Defendant's petition for reinstatement, (2) signed by a provider from whom Defendant has been receiving ongoing treatment or a licensed psychologist who has conducted a comprehensive psychological evaluation of Defendant, and (3) accompanied by sufficient releases to permit the Office of Counsel to make direct, meaningful inquiry of the treatment provider or evaluator.

Signed by the Chair with the consent of the other Hearing Panel members, this the 18th day of October, 2018.

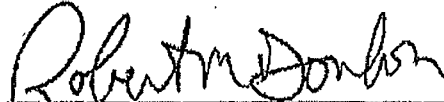


Fred M. Morelock, Chair
Disciplinary Hearing Panel

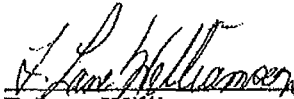
CONSENTED TO BY:



Maria J. Brown
Deputy Counsel
North Carolina State Bar
Counsel for Plaintiff



Robert M. Donlon
Defendant



F. Lane Williamson
Counsel for Defendant