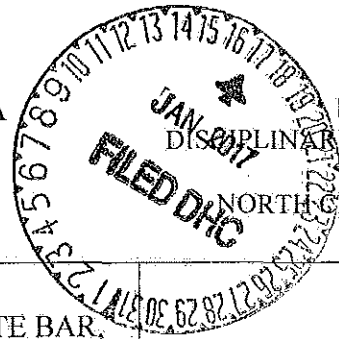


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
12 DHC I

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

DENNIS H. SULLIVAN, JR., Attorney,

Defendant

CONSENT ORDER

Defendant, Dennis H. Sullivan, was ordered to appear and show cause why the stay of the suspension imposed by the Order of Discipline entered in this case on 20 April 2012 should not be lifted and the suspension activated. This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Beverly T. Beal, Chair, N. Hunter Wyche, Jr., and Warren G. McDonald pursuant to 27 N.C. Admin. Code 1B § .0114(x). Plaintiff, the North Carolina State Bar, was represented by Carmen H. Bannon. Defendant was represented by Alan M. Schneider. 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 20 April 2012, the DHC entered a consent order of discipline finding that Defendant violated the Rules of Professional Conduct by failing to timely file individual income tax returns and failure to timely pay state and federal income taxes from 2005 through 2009.

2. The 20 April 2012 Order of Discipline suspended Sullivan's license to practice law for three years and stayed the suspension for five years on condition that Sullivan comply with the requirements specified in the order.

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

- (a) Refrain from violating the Rules of Professional Conduct or the laws of the United States or of any state;
- (b) Pay all taxes due to the IRS or the NC Department of Revenue;
- (c) Within ten days of receipt, provide the State Bar's Office of Counsel copies of all correspondence concerning his tax obligations sent to or received by him from any taxing authority;
- (d) Timely comply with all State Bar membership and CLE requirements; and
- (e) 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.

4. When Sullivan paid employees of his law firm, he was required by law to withhold funds from the employees' paychecks to pay federal income taxes.

5. Sullivan did not pay federal withholding taxes for his law firm's employees as required by law during several quarters in 2012, and throughout 2014.

6. In August 2012, the IRS filed a tax lien against Sullivan's law firm, Sullivan & Wagoner, LLP, for unpaid employee withholding taxes in the amount of \$3,545.84 for the tax period ending 31 March 2012. In 22 October 2012, the IRS filed a tax lien against the firm for unpaid employee withholding taxes in the amount of \$2,371.03, for the tax period ending 30 June 2012. Sullivan did not provide the Office of Counsel with copies of these liens.

7. In November 2012, Sullivan received a letter from the IRS approving his request to pay Sullivan & Wagoner's outstanding employee withholding tax liability (which totaled in excess of \$16,000.00) in installments. Sullivan did not provide the Office of Counsel with a copy of this letter.

8. In September 2015, Sullivan received a letter from the IRS approving his request to pay Sullivan & Wagoner's outstanding withholding tax liability for tax year 2014 in installments. Sullivan did not provide the Office of Counsel with a copy of this letter.

9. Sullivan did not provide the Office of Counsel any other correspondence from the IRS regarding his delinquency in remitting employee withholding taxes.

10. On 4 April 2016, the State Bar's CLE Department sent Sullivan an invoice for \$138.00 in fees for CLE he completed in 2015. The invoice provided that the amount

specified was due upon receipt. Sullivan did not pay the invoice or otherwise respond to this communication from the CLE Department within 30 days.

11. On 6 July 2016, the State Bar's CLE Department sent Sullivan another invoice for the \$138.00 he owed. The invoice again provided that this amount was due upon receipt. Sullivan did not pay the invoice or otherwise respond to this communication from the CLE Department within 30 days.

12. The invoices referenced in Paragraphs 10 and 11 were filed unopened by Sullivan's secretary. The first actual knowledge he had of them was upon receipt of the resulting Notice to Show Cause for non-payment. The invoice was paid promptly upon Sullivan's receipt of the Notice.

13. Sullivan enjoys an excellent reputation in the community and amongst fellow members of the Bar for his skills as an attorney.

14. Sullivan has accepted responsibility for his actions and is remorseful.

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, Dennis H. Sullivan, Jr., and over the subject matter of this proceeding.

2. Sullivan's failure to pay over employee withholding taxes as required by law was in violation of the Rules of Professional Conduct.

3. Sullivan failed to comply with the conditions of the stay of his suspension as follows:

(a) By violating the Rules of Professional Conduct and the laws of the United States governing employee withholding taxes;

(b) By failing to pay all taxes due to the IRS;

(c) By failing to provide the Office of Counsel copies of all correspondence concerning his tax obligations sent to or received by him from the IRS;

4. These violations warrant lifting the stay and activating of a portion of Sullivan's suspension.

5. The five-year stay period in the Order of Discipline expires in April 2017. However, in light of the violations described above, the protection of the public requires

that Sullivan be subject to an additional period of monitoring after he serves a period of active suspension but before he is permitted to return to the unrestricted practice of law.

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. With the consent of the parties, this order and the suspension imposed herein are effective 60 days after entry of this order.

2. All costs and administrative fees of this action are taxed to Defendant. Defendant must pay the costs of this action prior to filing any motion for a stay or petition for reinstatement.

3. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 60 days following the date that this Order is served upon him. During that 60 day period, Defendant shall comply with the wind down provisions contained in Rule .0124 of the North Carolina State Bar Discipline and Disability Rules.

4. After no less than one year of active suspension, Defendant may apply to have the remainder of the three year suspension stayed by filing a motion in the cause demonstrating compliance with the requirements of Rule .0125(b) of the North Carolina State Bar Discipline and Disability Rules and the requirements for reinstatement contained in paragraph 3 (and its subparagraphs) on page 6 of the Order of Discipline. In addition, to be eligible for a stay, Defendant must show by clear, cogent, and convincing evidence that he complied with each of the following conditions during the period of active suspension:

- (a) Defendant shall pay all taxes, penalties, interest and estimated taxes due to the IRS or the NC Department of Revenue, or timely arrange to pay his tax liability pursuant to an installment payment plan with the applicable taxing authority;
- (b) Defendant shall timely make all payments due under any payment plans with the IRS or the NC Department of Revenue; and
- (c) Within ten days of receipt or transmission, Defendant shall provide the State Bar's Office of Counsel copies of all correspondence concerning his tax obligations that he sends to or receives from any taxing authority.

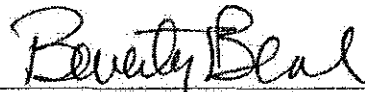
5. Defendant may file a motion in the cause seeking a stay of the remainder of the suspension up to 30 days prior to completing one year of active suspension but

shall not be permitted to resume practicing until he has served at least one year of active suspension.

6. If any portion of the three year suspension is stayed, Defendant's active status for the remainder of the three-year period shall be subject to, and contingent upon compliance with, the terms of the stayed suspension set forth in paragraph 1 and its subparagraphs on pages 4-5 of the Order of Discipline.

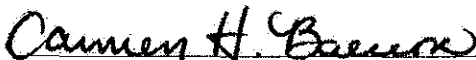
7. If Defendant is not reinstated to active status prior to the expiration of the three year suspension period, then before Defendant may be reinstated to active status he must satisfy the requirements of Rule .0125(b) of the North Carolina State Bar Discipline and Disability Rules and all requirements for reinstatement contained in paragraph 3 and its subparagraphs on page 6 of the Order of Discipline.

Signed by the Chair with the consent of the other Hearing Panel members, this the 12 day of January, 2017.



Beverly T. Beal, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:



Carmen Hoyme Bannon
Deputy Counsel
North Carolina State Bar
Counsel for Plaintiff



Dennis H. Sullivan, Jr.
Defendant



Alan M. Schneider
Counsel for Defendant