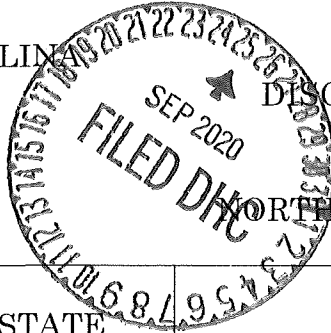


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING
 COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 19 DHC 10 SC

THE NORTH CAROLINA STATE
 BAR,

Plaintiff

v.

BROOKE MCKINLEY WEBSTER,
 Attorney,

Defendant

ORDER LIFTING STAY
 AND
 ACTIVATING SUSPENSION

THIS MATTER was heard on 14 September 2020 before a Hearing Panel of the Disciplinary Hearing Commission (DHC) composed of Stephanie N. Davis, Chair, and members Margaret M. Hunt and Ronald C. Brinson, upon Plaintiff's Motion to Activate Suspension. Carmen Hoyme Bannon represented Plaintiff, the North Carolina State Bar. Defendant, Brooke McKinley Webster, was represented by David B. Freedman.

Based upon the pleadings and the evidence presented at hearing, the Hearing Panel hereby finds by the greater weight of the evidence the following:

FINDINGS OF FACT

1. On 5 September 2019, the DHC entered a Consent Order of Discipline finding that Defendant, Brooke McKinley Webster, violated the Rules of Professional Conduct by committing criminal offenses reflecting adversely on his trustworthiness or fitness as a lawyer and suspending his license to practice law for two years. The suspension was stayed for two years provided Webster complied with the conditions specified in the order.

2. The effective date of the Order was 9 October 2019.

3. The stay of Webster's suspension was contingent upon conditions set forth in the Order, including:

(a) Within 60 days of entry of the Order, [Webster shall] undergo a psychological evaluation by a clinician approved by the State Bar's Office of Counsel, the purpose of which is:

- (b) To determine what emotional, behavioral, and/or cognitive factors caused Defendant to commit the offenses described [in the Order; and]
- (c) To recommend appropriate treatment to address and modify the identified factors that contributed to Defendant's misconduct.
- (d) The approved evaluator shall provide a comprehensive written report to the Office of Counsel within 30 days after the evaluation is completed.
- (e) Webster shall comply with all the evaluator's treatment recommendations. Within 30 days after the evaluation, Webster shall provide the Office of Counsel the name(s) and contact information for all clinicians and/or entities who will be providing any counseling and/or other treatment recommended by the evaluator;
- (f) Webster shall provide written releases to the Office of Counsel authorizing all providers from whom he receives treatment for any psychological, emotional, or behavioral condition during the period of the stayed suspension to communicate with the Office of Counsel and to release to the Office of Counsel records relating to his treatment and compliance with the provider's treatment recommendations. Webster shall not revoke these releases during the period of the stayed suspension; and
- (g) Webster shall ensure that each provider from whom he receives treatment for any psychological, emotional, or behavioral condition sends quarterly written reports (due January 30, April 30, July 30, and October 30 each year of the stayed suspension) on a timely basis to the State Bar. These reports shall describe the treatment and confirm that Webster is: (i) in compliance with all treatment recommendations and (ii) not suffering from any physical or mental condition that significantly impairs his professional judgment, performance, or competence as an attorney.

4. On 6 February 2020, the State Bar filed a Motion to Activate Suspension alleging that Webster had not complied with the conditions of stay set forth in paragraph 3, above.

5. Webster did not seek State Bar approval of any clinician to perform the evaluation described in the Order of Discipline.

6. Webster did not undergo the evaluation described in the Order of Discipline.

7. Webster did not provide the State Bar with a comprehensive report of evaluation as required by the Order of Discipline.

8. Webster did not provide to the State Bar written releases authorizing all providers from whom he receives treatment to provide information to the Office of Counsel as required by the Order of Discipline.

9. On 27 February 2020, Webster—through counsel—provided the State Bar with a letter from his treating psychologist dated 19 February 2020.

10. On 1 September 2020, Webster—through counsel—provided the State Bar with another letter from his treating psychologist dated 17 July 2020.

11. The letters described in the two preceding paragraphs were the only communications from Webster's treating clinicians submitted to the State Bar during the eleven months following the effective date of the Order of Discipline. Accordingly, Webster failed to provide quarterly reports from treating clinicians as required by the Order of Discipline.

12. Webster's failure to comply with the conditions of the stay of his suspension requires activation of the suspension of his law license.

Based upon the foregoing Findings of Fact, the Hearing Panel makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the DHC has jurisdiction over Defendant, Brooke McKinley Webster, and over the subject matter of this proceeding.

2. Defendant failed to comply with the above-described conditions of the stay of his suspension.

3. Defendant's noncompliance warrants lifting the stay and activating the suspension of his law license.

THEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel enters the following

ORDER

1. The stay of Defendant's two-year suspension is lifted and the two-year suspension is activated. Pursuant to 27 N.C. Admin. Code 1B.0128(c), this order and the two-year suspension imposed herein are effective 30 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 30 days following service of this Order upon Defendant.


3. Defendant shall wind down his law practice and comply with all provisions of 27 N.C. Admin. Code 1B.0128.

4. Within 15 days of the effective date of this order, Defendant shall provide the State Bar with an address and telephone number at which clients seeking information or return of files can communicate with Defendant and obtain such files, and Defendant shall promptly return all files to his clients upon request.

5. Pursuant to 27 N.C. Admin. Code 1B.0118(a)(4), Defendant is taxed with the administrative fees and costs of this proceeding. Defendant shall pay the administrative fees and costs of this proceeding, as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the costs within 30 days of service upon him of the statement of fees and costs by the Secretary.

6. At the expiration of the two-year active suspension, Defendant may petition for reinstatement of his license as set forth in Rule .0129.

Signed by the Chair with the consent of the other Hearing Panel members, this the 21st day of September 2020.


Stephanie N. Davis, Chair
Disciplinary Hearing Panel