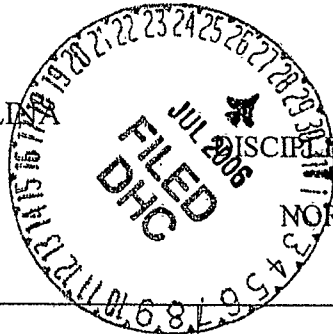


20627

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 06 DHC 17

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

TERRY T. ZICK, Attorney,

Defendant

FINDINGS OF FACT, CONCLUSIONS OF LAW AND CONSENT ORDER OF DISCIPLINE

This matter was heard by a hearing committee of the Disciplinary Hearing Commission composed of T. Richard Kane, Chair, Charles M. Davis and Michael J. Houser. Katherine E. Jean represented the plaintiff, the North Carolina State Bar. Dudley A. Witt represented the defendant, Terry T. Zick. 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. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Terry T. Zick, was admitted to the North Carolina State Bar on or about March 19, 1994, was until October 8, 2004 an active member of the State Bar authorized to practice law in North Carolina, and was at all times referred to herein subject to the rules, regulations, and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. Zick's license to practice law was suspended effective October 8, 2004.

4. Prior to the suspension of her license, Zick was engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Wilmington, New Hanover County, North Carolina.

5. Zick was properly served with the summons and complaint in this action.
6. Zick waived hearing and consented to entry of this Order.
7. In or about July, 2004, Zick undertook to represent George Taylor ("Taylor"), an inmate at a North Carolina correctional facility.
8. Zick undertook to represent Taylor in a deportation case.
9. Zick charged Taylor a flat fee of \$15,000 and an additional \$2,000 to visit Taylor in the Pasquotank Correctional facility.
10. Thelma Taylor, Taylor's mother, paid Zick \$17,000 on Taylor's behalf.
11. In October, 2004, Zick's law license was suspended for 5 years.
12. After her license was suspended in October, 2004, Zick was no longer authorized to practice law.
13. Zick did not complete the legal services for which she was retained by Taylor.
14. Taylor and Thelma Taylor demanded a refund from Zick.
15. Zick failed to give Taylor or Thelma Taylor a refund.

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Committee and the Committee has jurisdiction over defendant Terry T. Zick and over the subject matter.

2. Zick's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

By failing to refund the unearned portion of the \$17,000 fee, Zick collected a clearly excessive fee in violation of Rule 1.5(a) of the Revised Rules of Professional Conduct and failed to refund the unearned portion of the fee upon termination of employment in violation of Rule 1.16(d) of the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and the consent of the parties concerning appropriate discipline, the hearing committee hereby makes additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The Committee finds the following aggravating factors:
 - a. Zick has engaged in a pattern of misconduct;
 - b. Zick has engaged in multiple offenses; and
 - c. Zick has substantial experience in the practice of law.
2. Zick's misconduct is mitigated by the following factors:
 - a. Zick has acknowledged her obligation to refund the unearned portion of the fee to Thelma Taylor and has acknowledged the wrongfulness of her conduct.
 - b. Zick has a cooperative attitude toward this disciplinary proceeding.
3. The aggravating factors outweigh the mitigating factors.
4. Zick has engaged in conduct that has caused significant harm to Taylor and to Thelma Taylor.
5. Zick's conduct caused actual harm to the standing of the legal profession, undermining Taylor's and Thelma Taylor's trust and confidence in lawyers and in the legal system.
6. This DHC Committee has considered lesser alternatives and finds that a public censure or reprimand would not be sufficient discipline because of the gravity of the harm and potential harm caused by Zick's conduct to the public, to Taylor and to Thelma Taylor.
7. For those reasons, this DHC Committee believes and so finds that an Order of Discipline suspending Zick's license to practice law is necessary and appropriate. Zick's conduct concerning Taylor is essentially part of the pattern of misconduct for which Zick was disciplined in case 03 DHC 19 with a suspension of her license for five years, which is the statutory maximum period of time for which a

suspension can be imposed. The hearing committee will not enter a separate order of suspension for Zick's conduct concerning Taylor.

8. The Hearing Committee does find it appropriate to enter an order imposing a condition specific to Taylor that must be met by Zick in order to qualify for reinstatement, in addition to the other conditions set out in the Order of Discipline previously issued in 03 DHC 19.

9. Zick's clients Jack Liberstein, Donna Bowen, Faye Berwick and Warren Wilson have made claims against the State Bar's Client Security Fund. The Client Security Fund has paid the claims of Liberstein and Bowen in the amounts of \$2500 and \$2000, respectively. The State Bar has obtained judgments in Wake County District Court against Zick on its subrogation claims for payment of the Liberstein and Bowen Client Security Fund payments. The Client Security Fund has not yet made a determination whether it will pay the Berwick and Wilson claims.

10. The Hearing Committee finds that it is appropriate to require Zick to reimburse the State Bar's Client Security Fund for all payments it has made or may make in the future to Liberstein, Bowen, Berwick and Wilson as a condition to Zick's eligibility to apply for a stay of the last two years of the 5 year suspension imposed in 03 DHC 19 and as a condition of Zick's eligibility to apply for reinstatement to active status.

Based upon the foregoing findings of fact and conclusions of law and based upon the consent of the parties, the hearing committee hereby enters the following

ORDER OF DISCIPLINE

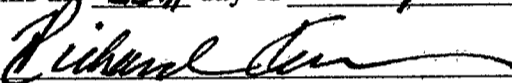
The Order of Discipline in 03 DHC 19 suspended Zick's license to practice law for 5 years and provided that the final two years of the suspension could be stayed upon Zick's satisfaction of enumerated conditions contained in paragraph 6 of the Order of Discipline. Paragraph 9 of the Order of Discipline in 03 DHC 19 further provides that Zick must satisfy the enumerated conditions contained in paragraph 6 in order to be eligible for reinstatement to active status. The Order of Discipline in 03 DHC 19 is amended as follows:

1. Paragraphs 6 and 9 of the Order of Discipline in 03 DHC 19 are amended to add the following requirements which Zick must satisfy by clear and convincing evidence in order to be eligible to apply for a stay of the final two years of her 5 year suspension and which Zick must satisfy in order to be eligible for reinstatement to active status:

- p. Zick shall have refunded to Thelma Taylor the sum of \$15,000.
- q. Zick shall have repaid in full to the State Bar Client Security Fund any amounts the Client Security Fund has paid in satisfaction of claims by any or all of the following clients: Jack Liberstein (03 CSF 0033), Donna Bowen (05 CSF 0103), Faye Berwick (06 CSF 0022), and Warren Wilson (06 CSF 0099).

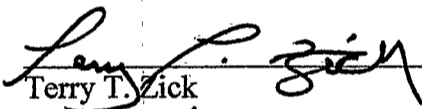
Except as specifically set forth herein, the Order of Discipline entered in 03 DHC 19, including all conditions contained in paragraphs 6 and 9 of the Order of Discipline, shall remain unchanged.

Signed by the Chair of the Hearing Committee with the consent of the other Hearing Committee members, this the 26th day of July, 2006.




T. Richard Kane
Chairman, Disciplinary Hearing Committee

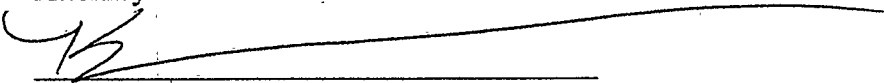
CONSENTED TO BY:



Terry T. Zick
Defendant



Dudley A. Witt
Attorney for Defendant



Katherine E. Jean
Deputy Counsel
Attorney for Plaintiff