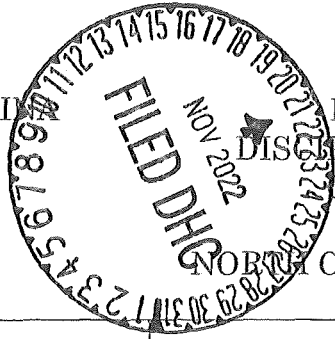


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING
 COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 22 DHC 27N

THE NORTH CAROLINA STATE
 BAR,

Petitioner

v.

ELIZABETH J. CAVINESS,
 Attorney,

Respondent

ORDER OF
 NONCOMPLIANCE
 SUSPENSION

THIS MATTER was considered by the Chair of the Disciplinary Hearing Commission pursuant to 27 N.C. Admin. Code 1B § .0135. Petitioner, the North Carolina State Bar, was represented by Thomas L. Crosby. Respondent, Elizabeth J. Caviness, did not file a response. Based on the filings, the Chair of the Disciplinary Hearing Commission finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Petitioner, the North Carolina State Bar ("State Bar"), is a state agency 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).
2. Respondent, Elizabeth J. Caviness ("Respondent") was licensed to practice law in North Carolina in 1989 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.
3. On March 20, 2022, Diane T. Campbell filed grievance file no. 22G0282 ("22G0282") against Caviness.

4. On March 24, 2022, the State Bar sent Caviness a Letter of Notice in 22G0282. As part of its letter, the State Bar requested Caviness produce records associated with Diane T. Campbell.
5. On March 29, 2022, Caviness accepted service of the Letter of Notice in 22G0282.
6. Caviness' response to the Letter of Notice was due April 12, 2022.
7. After receipt of the Letter of Notice, Caviness called a State Bar investigator assigned to the grievance and said she would review the file and call the investigator back within two business days.
8. Caviness did not call the investigator back.
9. Caviness did not respond to the Letter of Notice by April 12, 2022.
10. By email dated April 26, 2022, the State Bar inquired as to the status of the overdue response.
11. The April 26, 2022 email recited a deadline of April 29, 2022 for Caviness to respond to the Letter of Notice.
12. Caviness did not reply to the April 26, 2022 email.
13. Caviness did not respond to the Letter of Notice by April 29, 2022.
14. Between May and June 2022, State Bar Councilor DeWitt F. "Mac" McCarley attempted to contact Caviness regarding 22G0282.
15. McCarley called Caviness' office numerous times, and left 8 to 10 messages with Caviness' administrative assistant.
16. Caviness did not reply to McCarley's phone calls.
17. On September 13, 2022, the Chair of the Grievance Committee subpoenaed the records previously requested in the State Bar's Letter of Notice, and ordered Caviness to produce the records by September 27, 2022.
18. The subpoena was delivered on September 16, 2022 with no green card signed.

19. On September 22, 2022, the Chair of the Grievance Committee issued a second identical subpoena, and ordered Caviness to produce the records by October 4, 2022.
20. The second subpoena was served on September 27, 2022.
21. On September 27, 2022, Caviness left voice messages for the assigned Deputy Counsel and Paralegal Brittany Wilson, where she acknowledged receipt of the subpoena and indicated she had COVID and would be unable to comply with the subpoena.
22. When the assigned Deputy Counsel called Caviness on the provided telephone number, no one answered, and no voicemail was set up.
23. By email dated September 27, 2022, the State Bar followed up regarding Caviness' voicemail, and requested confirmation of receipt of the subpoena and a reply in order to discuss Caviness' response to the Letter of Notice.
24. Caviness did not respond to either request.
25. On October 17, 2022, the State Bar sent Caviness a letter detailing the history of the State Bar's attempts to get Caviness to respond to the Letter of Notice. The letter instructed Caviness to respond to the Letter of Notice, as well as comply with the subpoenas issued by the Chair of the Grievance Committee. Caviness was also instructed to advise the State Bar as to whether she is currently disabled as defined in 27 N.C. Admin. Code 1B. 0103(19).
26. The October 17, 2022 letter recited a deadline of October 31, 2022 for Caviness to comply, after which the State Bar would petition the Disciplinary Hearing Commission for suspension of Caviness's law license for her failure to respond fully and timely to the Letter of Notice from the State Bar in a pending grievance investigation pursuant to 27 N.C. Admin. Code 1B. 0135.
27. Caviness did not respond to the October 17, 2022 letter.
28. Caviness has not responded to the Letter of Notice.
29. Caviness has not complied with the subpoenas issued by the Chair of the Grievance Committee.
30. On November 1, 2022, after Respondent failed to respond to the Letter of Notice and provide documents and information responsive to subpoenas issued by the Grievance Committee in relation to grievance file no. 22G0282, the State Bar filed a petition with the DHC setting forth the efforts made by the State

Bar seeking Respondent's compliance and seeking entry of an order directing Respondent to show cause why her law license should not be suspended for failure to comply with the grievance process.

31. The Petition was supported by the Affidavit of State Bar Investigator Stephan Lampert pursuant to 27 N.C. Admin Code 1B § .0135(c)(1).
32. On November 3, 2022, the DHC entered an Order directing Respondent to show cause within 14 days of the date of service of the Order upon Respondent why her law license should not be suspended for failure to comply with the grievance process.
33. Service upon Respondent was satisfied upon a mailing sent to Respondent on November 3, 2022 pursuant to 27 N.C. Admin Code 1B § .0135(d)(4).
34. The Order warned Respondent that failure to comply with the grievance process or respond to the Order may result in the suspension of her law license.
35. Respondent did not respond to the November 3, 2022 Order.
36. The State Bar met its burden of proof by establishing that Respondent was noncompliant with the investigation of grievance file no. 22G0282. Respondent failed to meet her burden of establishing that the noncompliance was justified and did not offer evidence of the other possible defenses described in § .0135(f)(2).

Based upon the foregoing Findings of Fact, the Chair makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Chair of the Disciplinary Hearing Commission, and the Disciplinary Hearing Commission has jurisdiction over Respondent, Elizabeth J. Caviness, and over the subject matter of this proceeding.
2. Respondent is noncompliant with the investigation of grievance file no. 22G0282 as defined in 27 N.C. Admin. Code 1B.0135(a).
3. Respondent has not shown that there is good cause for her noncompliance.
4. Respondent's noncompliance is grounds for the suspension of her law license pursuant to 27 N.C. Admin. Code 1B.0135(e)(3) and (g).

Based upon the foregoing Findings of Fact, and Conclusions of Law, the Chair of the Disciplinary Hearing Commission enters the following:

ORDER

1. Respondent, Elizabeth J. Caviness, is hereby suspended from the practice law, effective thirty (30) days after this Order is served upon her.
2. Respondent shall comply with all the wind-down provisions of 27 N.C. Admin Code 1B § .0128, as provided in 27 N.C. Admin. Code 1B § .0135(h).
3. Any petition by Respondent to be reinstated to the practice of law shall be governed by 27 N.C. Admin. Code 1B § .0135(i).

This the 21st day of November, 2022.



Stephanie N. Davis, Chair
Disciplinary Hearing Commission