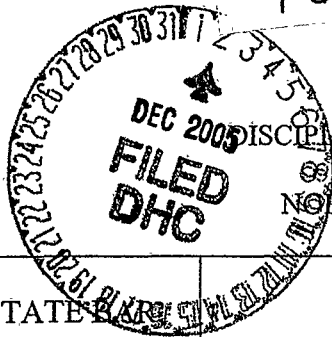


16898

NORTH CAROLINA

WAKE COUNTY



BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 05 DHC 40

THE NORTH CAROLINA STATE BAR

Plaintiff

v.

BRENT E. WOOD, Attorney,

Defendant

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

This matter was considered by a hearing committee of the Disciplinary Hearing Commission composed of Karen Eady-Williams, Chair, and members John M. May and Lorraine Stephens. Jennifer A. Porter represented the Plaintiff, the North Carolina State Bar. The Defendant, Brent E. Wood, represented himself. 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 hereby finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. The 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. The Defendant, Brent E. Wood ("Wood"), was admitted to the North Carolina State Bar 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 Revised Rules of Professional Conduct.
3. During all or part of the relevant periods referred to herein, Wood was engaged in the practice of law in the State of North Carolina and maintained a law office in Wake County, North Carolina.
4. Wood was properly served with process, a hearing in this matter was set, and the matter came before the hearing committee with due notice to all parties.

5. Wood's 1999 state income tax return was due to the North Carolina Department of Revenue by April 15, 2000. Wood did not obtain any extension for additional time. The state income tax return Wood filed for 1999 is dated July 26, 2004. The copy of the 1999 return provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena bears the stamp of August 27, 2004.

6. Wood's 2000 state income tax return was due to the North Carolina Department of Revenue by April 15, 2001. Wood did not obtain any extension for additional time. The state income tax return Wood filed for 2000 is dated March 24, 2004. The copy of the 2000 return provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena bears the marking of April 15, 2004.

7. Wood's 2001 state income tax return was due to the North Carolina Department of Revenue by April 15, 2002. Wood did not obtain any extension for additional time. The state income tax return Wood filed for 2000 is dated March 24, 2004. The copy of the 2001 return provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena bears the marking of April 15, 2004.

8. Wood's payment of his 1999 state income tax was due to the North Carolina Department of Revenue by April 15, 2000. Wood did not obtain any extension for additional time. The payment records provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena show payment from Wood for his 1999 state income tax on October 26, 2004.

9. Wood's payment of his 2000 state income tax was due to the North Carolina Department of Revenue by April 15, 2001. Wood did not obtain any extension for additional time. The payment records provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena show payment from Wood for his 2000 state income tax in October 2004, with payments on October 5<sup>th</sup> and October 26<sup>th</sup>.

10. Wood's payment of his 2002 state income tax was due to the North Carolina Department of Revenue by April 15, 2003. Wood did not obtain any extension for additional time. The payment records provided by the North Carolina Department of Revenue to the State Bar pursuant to subpoena show payment from Wood for his 2002 state income tax on December 10, 2003.

11. Willful failure to file or pay state individual income taxes when due is a Class 1 misdemeanor under N.C. Gen. Stat. § 105-236 (9).

12. Wood was charged in Wake County, North Carolina with willful failure to file his individual income tax returns for the years 1999 and 2003 and with willful failure to pay his individual income taxes for the years 1998 and 2003, which are Class 1 misdemeanors under N.C. Gen. Stat. § 105-236(9).

13. On November 30, 2004, Wood pled guilty to willful failure to file his individual income tax return for the year 1999. The other charges were dismissed. Wood

was ordered to pay \$100.00 in court costs and a fine of \$150.00. Wood was also ordered to ensure that all his returns were filed and all taxes paid in the amount of \$23,000.00.

14. Wood was served with a letter of notice in this matter by certified mail on or about April 28, 2005. Wood was required to respond within fifteen (15) days of receipt, pursuant to the terms of the letters of notice and Rule .0112(c) of the Discipline and Disability Rules of the North Carolina State Bar, 27 N.C. Admin. Code, 1B § .0112(c). Wood did not respond to the letter of notice.

#### CONCLUSIONS OF LAW

1. All the parties are properly before the hearing committee and the committee has jurisdiction over the Defendant, Brent E. Wood, and the subject matter.

2. The Defendant'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) and (3) as follows:

- a. By unlawfully and willfully failing to file and/or pay state income taxes when those taxes were due, Wood committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b); and
- b. By failing to respond to the letter of notice issued by the Chair of the Grievance Committee within the deadline established in the letter of notice and by the rules, Wood failed to timely respond to an inquiry by the Bar in violation of Rule 8.1(b) of the Revised Rules of Professional Conduct and N.C. Gen. Stat. § 84-28(b)(3).

Based upon the stipulations of fact and the consent of the parties, the hearing committee hereby finds by clear, cogent, and convincing evidence the following additional

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. Wood's misconduct is aggravated by the following factors:

- a. Pattern of misconduct;
- b. Multiple offenses; and
- c. Substantial experience in the practice of law.

2. The Defendant's misconduct is mitigated by the following factors:

- a. Timely good faith effort to make restitution or to rectify the

consequences, including having paid the North Carolina Department of Revenue his overdue state taxes;

- b. Full and free disclosure to the hearing committee and a cooperative attitude toward the proceedings;
  - c. Imposition of other penalties or sanctions, to wit: court costs and fine as described above;
  - d. Wood suffered from personal, professional, and emotional difficulties at the time of the misconduct, which contributed to his violation of the Rules of Professional Conduct;
  - e. No prior discipline; and
  - f. Remorse.
3. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing factors and with the consent of the parties, the hearing committee hereby enters the following

#### ORDER OF DISCIPLINE

1. The license of the Defendant, Brent E. Wood, is hereby suspended for two (2) years and that suspension is stayed for two (2) years upon the following terms and conditions. During the stayed suspension, Wood shall:
  - a. Comply with the terms of all agreements with the Internal Revenue Service and the North Carolina Department of Revenue in existence during the stay;
  - b. Provide the State Bar with documentation from the Internal Revenue Service (IRS) showing compliance with the terms of any agreements with the IRS, documenting compliance from the date of the entry of this order through sixty (60) days prior to the expiration of the two year stay and filed with the State Bar no later than fifteen (15) days prior to expiration of the two year stay;
  - c. File and pay all future state and federal income taxes in a timely manner;
  - d. Provide the State Bar with copies of all state and federal income tax returns filed during the stay and proof of payment of income taxes due during the stay. Such returns and/or any requests for extensions or other documents related to the filing and/or payment of Wood's state or federal individual income

tax shall be provided to the State Bar within ten (10) days of the filing of such document(s) with the Internal Revenue Service or the North Carolina Department of Revenue;

- e. Not violate any laws of the State of North Carolina or of the United States;
- f. Not violate any provision of the Revised Rules of Professional Conduct;
- g. Pay the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar within 30 days of notice of the costs being served upon him;
- h. Pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education requirements on a timely basis; and
- i. Keep his address of record with the North Carolina State Bar current, accept all certified mail from the North Carolina State Bar, and
- j. Respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication.

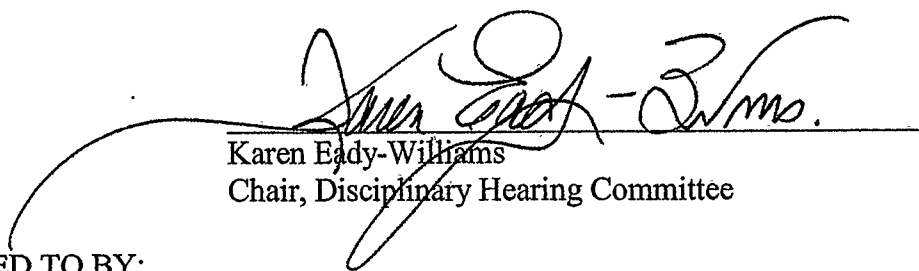
2. If during the stay of the two (2) year suspension Wood fails to comply with any one or more of the conditions stated in Paragraph 1(a) through 1(j) above, then the stay of the suspension of his law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

3. If the stay of the suspension is lifted and the suspension is activated for any reason, Wood must show by clear, cogent, and convincing evidence that he complied with each of the following conditions before seeking reinstatement:

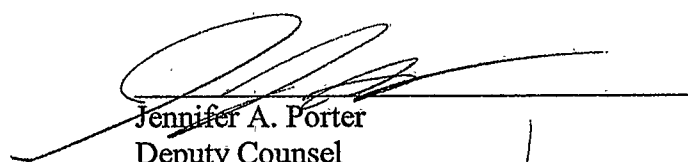
- a. Submitted his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days from the effective date of the order activating his suspension;
- b. Complied with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the N.C. State Bar Discipline & Disability Rules on a timely basis;
- c. Not violated any of the Revised Rules of Professional Conduct;
- d. Not violated any laws of the State of North Carolina or of the United States;

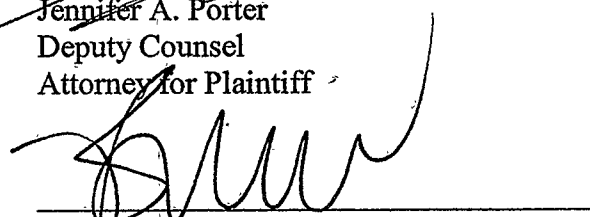
- e. Paid all costs of this proceeding as assessed by the Secretary;
  - f. Show that he is not then suffering from any disability that would impair his ability to practice law;
  - g. Show he has complied with the terms of any payment agreements with the Internal Revenue Service and the North Carolina Department of Revenue in effect during the suspension period;
  - h. Provided the State Bar with documentation from the Internal Revenue Service and the North Carolina Department of Revenue showing compliance with the terms of any payment agreements with these entities during the suspension period;
  - i. Timely filed and paid any state or federal income taxes coming due during the period of the suspension;
  - j. Provided the State Bar with copies of all income tax returns filed during the suspension and proof of payment of any income taxes coming due during the suspension, filed with the State Bar within ten (10) days of filing with the Internal Revenue Service or the North Carolina Department of Revenue;
  - k. If the suspension was activated for Wood's failure to timely file and/or pay state and/or federal individual income tax, Wood will have rectified the deficiency by filing and/or paying as appropriate the income tax(es) at issue and will have provided proof of such to the State Bar;
  - l. Paid all Membership dues and Client Security Fund assessments and complied with all Continuing Legal Education requirements on a timely basis as if still in practice during the suspension;
  - m. Kept his address of record with the North Carolina State Bar current;
  - n. Accepted all certified mail from the North Carolina State Bar, and
  - o. Responded to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in communications to him from the State Bar.
4. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

Signed by the Chair with the consent of the other hearing committee members,  
this the 1<sup>st</sup> day of December, 2005.

  
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Karen Eady-Williams  
Chair, Disciplinary Hearing Committee

CONSENTED TO BY:

  
\_\_\_\_\_  
Jennifer A. Porter  
Deputy Counsel  
Attorney for Plaintiff

  
\_\_\_\_\_  
Brent E. Wood  
Defendant