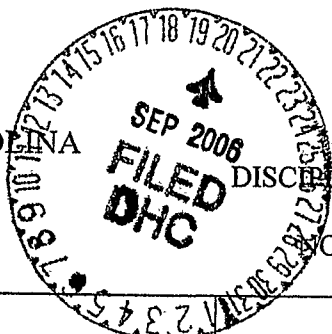


STATE OF NORTH CAROLINA

WAKE COUNTY



12716  
BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
06 DHC 10

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARK F. REYNOLDS, Attorney,

Defendant

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

This matter was heard on August 25, 2006 before a hearing committee of the Disciplinary Hearing Commission composed of the Chair, Charles M. Davis, and members Karen Eady-Williams and Johnny A. Freeman. Jennifer A. Porter represented the Plaintiff, the North Carolina State Bar. Defendant, Mark F. Reynolds, did not appear and was not represented. Based upon the pleadings and the admissions considered pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(f), 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, Mark F. Reynolds, ("Reynolds"), was admitted to the North Carolina State Bar in April 1985 and is, 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. During all or a portion of the periods relevant hereto, Reynolds was a resident of High Point, North Carolina.
4. Reynolds 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. On April 29, 2004, William Bean and Cathy Blake filed a petition for resolution of a disputed fee ("Bean-Blake fee dispute") against Reynolds with the North Carolina State Bar.

6. On April 30, 2004, the North Carolina State Bar referred the Bean-Blake fee dispute to the 18<sup>th</sup> Judicial District Fee Dispute Resolution Committee for mediation.

7. Robert A. Brinson ("Brinson") agreed to mediate the Bean-Blake fee dispute and made numerous attempts to contact Reynolds between May 1, 2004 and January 24, 2005.

8. Reynolds failed to respond to notices sent to him by Brinson regarding the Bean-Blake fee dispute and failed to participate in the fee dispute mediation process in good faith.

9. On February 2, 2005, the North Carolina State Bar opened a grievance file against Reynolds based upon his failure to respond to the notices of the Bean-Blake fee dispute and his failure to participate in the fee dispute mediation process in good faith. The grievance file was assigned file number 05G0140.

10. On or about March 14, 2005, the State Bar served Reynolds with a letter of notice and substance of grievance regarding file number 05G0140 by certified mail, and directed him to respond in writing within 15 days.

11. Reynolds did not respond to the letter of notice, nor did he respond to a follow up letter of notice sent to him on April 8, 2005.

#### CONCLUSIONS OF LAW

1. All the parties are properly before the hearing committee and the committee has jurisdiction over the Defendant, Mark F. Reynolds, 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) as follows:

1. By failing to respond to the notice of the Bean-Blake fee dispute, Reynolds failed to participate in the fee dispute mediation in good faith in violation of Rule 1.5(f)(2) of the Revised Rules of Professional Conduct.

2. By failing to respond to the letter of notice and follow up letter sent to him by the N.C. State Bar regarding file number 05G 140, Reynolds failed to respond to a lawful inquiry from a disciplinary authority in violation of Rule 8.1 of the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments of the parties concerning appropriate discipline, the hearing committee hereby finds by clear, cogent, and convincing evidence the following additional

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. Reynolds has been disciplined in federal and state court, as described in detail below. The discipline by the courts predated the misconduct at issue in this case. Reynolds also received a five year suspension by Order of the DHC in 05 DHC 5, entered June 10, 2005. The Order in 05 DHC 5 was entered after the misconduct at issue in this case.

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

- a. Prior discipline, consisting of:
  - i. Disbarment from practice in federal court by order of the United States District Court for the Middle District of North Carolina in February 2004 for multiple violations of court orders;
  - ii. Censure by the Superior Court in Guilford County, North Carolina, issued December 27, 2002, for neglect of a client matter and making a false representation to the Court; and
  - iii. Two year suspension by the Superior Court in Guilford County, North Carolina, by Order effective on February 14, 2004, for failing to comply with mental health examination requirements in the Court's December 27, 2002 Order and for false representations to the Court during the hearing held by the Court on November 24, 2003 concerning Reynolds' failure to comply with the Court's Order. This suspension was in effect during the time of the misconduct at issue in this case.
- b. Pattern of misconduct;
- c. Multiple offenses;
- d. Bad faith obstruction of the disciplinary proceedings, by intentionally failing to comply with the rules governing hearings before the Disciplinary Hearing Commission and Orders of the Disciplinary Hearing Commission;
- e. Refusal to acknowledge the wrongful nature of his conduct; and

f. Substantial experience in the practice of law.

3. The Defendant's misconduct is mitigated by the following factor:

a. Absence of a dishonest or selfish motive.

4. The aggravating factors outweigh the mitigating factor.

5. Reynolds' misconduct has caused actual harm and created a threat of potential significant harm to his clients and to the profession. Reynolds' failure to participate in the self-regulation of the profession by the State Bar thwarts the State Bar's ability to protect his former clients and the public and imperils the profession's privilege of self-regulation.

6. Reynolds' failure to comply with the Rules of Professional Conduct by which the State Bar would regulate his conduct echoes his prior failures to comply with orders from federal and state courts and shows that Reynolds presents an ongoing threat of potential significant harm to his clients, the profession, and the administration of justice.

7. The hearing committee has considered lesser forms of discipline and finds that a substantial period of suspension is the only sanction that can adequately protect the public for the following reasons:

- a. Reynolds' misconduct occurred over a substantial period of time and therefore appears to be the result of a serious condition or character flaw, rather than an aberration;
- b. An order of discipline imposing less than a five year suspension would not sufficiently protect the public because Reynolds has failed to show that he has addressed whatever trait or problem that caused his misconduct and therefore there is a risk that he would continue to violate the Rules of Professional Conduct if he were allowed to continue in the practice of law; and
- c. Entry of an order imposing lesser discipline than suspension would fail to acknowledge the seriousness of the offenses committed by Reynolds and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings of Fact Regarding Discipline, the hearing committee hereby enters the following

#### ORDER OF DISCIPLINE

1. Mark F. Reynolds' license to practice law is suspended for a period of five years, commencing at the expiration of the five year suspension imposed by the Order of Discipline entered in case number 05 DHC 5.

2. Reynolds shall pay the costs of this proceeding as assessed by the Secretary within 30 days of service of the statement of costs upon him.

3. Reynolds shall comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the North Carolina State Bar Discipline and Disability Rules.

4. To be eligible for reinstatement at the end of the suspension imposed in this Order, Reynolds must show by clear, cogent, and convincing evidence that he has satisfied the requirements of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125 of the North Carolina Discipline and Disability Rules and that he has complied with the following:

a. Attended, at his own expense, ten hours of mental health continuing legal education instruction offered by a course provider approved by the State Bar within the three years immediately preceding his application for reinstatement. Documentation of compliance must accompany the application for reinstatement;

b. Undergone, at his own expense, a mental health evaluation by a qualified and licensed mental health professional approved by the Office of Counsel of the North Carolina State Bar within one year immediately preceding his application for reinstatement. A written report of the evaluation from the provider must accompany the application for reinstatement. Reynolds will also have signed an authorization form allowing the mental health provider to provide information and records concerning the mental health evaluation to the Office of Counsel of the State Bar and will provide this form with his application for reinstatement;

c. Attended, at his own expense, five three-hour continuing legal education courses in law office management offered by a course provider approved by the State Bar within the three years immediately preceding his application for reinstatement. Documentation of compliance must accompany the application for reinstatement;

d. Not violated any of the Revised Rules of Professional Conduct;

e. Not violated any laws of the State of North Carolina or of the United States;

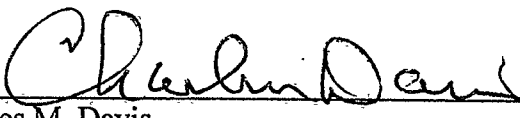
f. Paid all costs of this proceeding as assessed by the Secretary within 30 days of service of the statement of costs upon him;

g. Kept the North Carolina State Bar Membership Department advised of his current business and home address;

h. Responded to all communications from the North Carolina State Bar received after the effective date of this order within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and

i. Paid all dues, late fees and assessments owed to the North Carolina State Bar.

Signed by the Chair with the consent of the other hearing committee members,  
this the 19 day of September, 2006.

  
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Charles M. Davis  
Chair, Disciplinary Hearing Committee