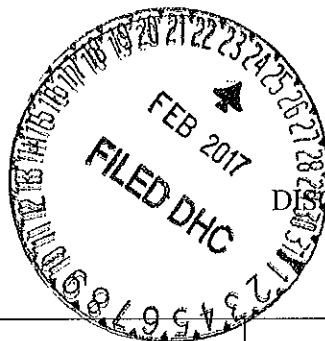


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 28

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

WILLIAM E. BROWN, Attorney,

Defendant

ORDER
OF DISCIPLINE

This matter was heard on February 24, 2017 by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, and members Richard V. Bennett and Tyler B. Morris pursuant to 27 N.C. Admin. Code § 1B.0114. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant William E. Brown (hereinafter Defendant or Brown) was not represented and did not make an appearance in this matter. Pursuant to 27 N.C. Admin. Code § 1B.0114(f), upon Defendant's default, the Hearing Panel granted Plaintiff's Motion for Order Entering Findings of Fact and Conclusions of Law and filed an Order Entering Findings of Fact and Conclusions of Law on December 22, 2016. The hearing on February 24, 2017 was solely on the issue of what discipline, if any, was appropriate.

As previously ordered in its December 22, 2016 Order Entering Findings of Fact and Conclusions of Law, based on the pleadings and the admissions established by Defendant's default pursuant to 27 N.C. Admin. Code § 1B.0114(f), the Hearing Panel found by clear, cogent and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, William E. Brown ("Brown"), was admitted to the North Carolina State Bar in 1993 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. During all or part of the relevant periods referred to herein, Brown was engaged in the practice of law in the State of North Carolina and maintained a law office in Fayetteville, Cumberland County, North Carolina. Brown is currently suspended from the practice of law and lives in Ohio.

4. Brown unlawfully and willfully failed to file his federal individual income tax return, including but not limited to for calendar year 2010, when such tax return was due, as required by 26 U.S.C. § 6012.

5. Willful failure to file a federal income tax when due is a misdemeanor punishable by either a fine, imprisonment, or both under 26 U.S.C. § 7203.

6. Brown was charged in the United States District Court for the Eastern District of North Carolina with willful failure to file his federal individual income tax returns for the years 2008, 2009, and 2010.

7. On or about September 29, 2014, Brown pled guilty to willful failure to file his federal individual income tax return for the year 2010. Brown was sentenced on or about January 14, 2015.

8. Willful failure to file a tax return is a criminal offense showing professional unfitness as defined by 27 N.C. Admin. Code § 1B.0103 (17).

As previously ordered in its December 22, 2016 Order Entering Findings of Fact and Conclusions of Law, based on the foregoing Findings of Fact, the Disciplinary Hearing Panel made the following

CONCLUSIONS OF LAW

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

2. Default has been entered by the Secretary of the State Bar and Defendant has failed to file any responsive pleading in this matter. The allegations of Plaintiff's complaint are properly deemed admitted pursuant to Defendant's default.

3. Defendant's actions set forth above constitute grounds for discipline as follows:

a. Pursuant to N.C. Gen. Stat. § 84-28(b)(1), for conviction for failure to file a federal individual income tax return for the year 2010 when such return was due, a criminal offense showing professional unfitness; and

b. Pursuant to N.C. Gen. Stat. § 84-28(b)(2), for engaging in conduct in violation of the Rules of Professional Conduct in effect at the time of his actions as follows: by unlawfully and willfully failing to timely file a federal income tax return for the year 2010, Brown committed a criminal act that reflects adversely

on his honesty, trustworthiness, or fitness in other respects in violation of Rule 8.4(b) and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

Based upon the pleadings and the admissions established by Defendant's default pursuant to 27 N.C. Admin. Code § 1B.0114(f), and the evidence admitted at hearing, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant was sentenced in January 2015 to 10 ½ months imprisonment and ordered to pay an assessment and restitution.

2. Defendant was admitted to the North Carolina State Bar in 1993 and has substantial experience in the practice of law.

3. When lawyers violate the law in their business and personal affairs, it brings disrepute upon the legal profession and undermines public confidence in lawyers.

4. Failure to file a federal income tax return is an act of dishonesty and misrepresentation in that it falsely represents that the taxpayer did not have sufficient income to warrant the filing of the return or the payment of income tax under the pertinent statutory provisions of the Internal Revenue Code.

5. Defendant's failure to file his federal income tax return created the foreseeable potential harm of misleading the Department of the Treasury in its administration of the Internal Revenue Code regarding Defendant's income and any income tax due from Defendant.

6. Defendant has manifested a prolonged and ongoing disregard for his professional obligations and for the regulation of the profession through his repeated violations of the Rules of Professional Conduct and through his failure to respond to the inquiries of the State Bar, to participate in the State Bar's Fee Dispute Program, and to participate in the attorney disciplinary process.

7. On February 26, 2008, the Chair of the Grievance Committee, on behalf of the Grievance Committee, issued Defendant a reprimand in grievance 07G0625. Defendant was reprimanded for client neglect, failure to promptly return a client's file, and failure to timely respond to the State Bar. In that reprimand, Defendant was warned that "[i]n order for our disciplinary system to work, lawyers must cooperate by responding promptly to grievances that are filed against them."

8. In an order filed on July 19, 2010, a hearing panel of the Disciplinary Hearing Commission suspended Defendant's law license for three years in case 09 DHC 33, but stayed the suspension on certain conditions, for making sexually explicit comments to clients, soliciting sex from clients, and attempting to have sex with clients.

9. One of the conditions of the stayed suspension in 09 DHC 33 was that Defendant file state and federal income tax returns on a timely basis and provide the State Bar with his filed tax returns each year, within fifteen days of filing. The first tax returns that Defendant would have had to provide to the State Bar under this condition were his 2010 tax returns.

10. On August 26, 2010, the Chair of the Grievance Committee, on behalf of the Grievance Committee, issued Defendant a reprimand in grievances 09G1265 and 10G0001. Defendant was reprimanded for failure to communicate with a client, failure to participate in the State Bar's mandatory Fee Dispute Resolution Program, and failure to respond to State Bar inquiries.

11. In an order filed on March 23, 2011 in case 09 DHC 33, the same hearing panel of the Disciplinary Hearing Commission that entered the July 19, 2010 order imposing the stayed suspension upon Defendant lifted the stay and activated at least six months of the suspension for Defendant's failure to comply with the conditions of the stay. The hearing panel found numerous instances of conduct that violated the conditions of the stay, including neglect of a client matter, failure to participate in the Fee Dispute Resolution Program on multiple occasions, and failure to respond to the State Bar's requests for information in multiple grievance investigations.

12. Defendant has not sought reinstatement or been reinstated from the activated suspension imposed in 09 DHC 33.

13. By order filed on June 7, 2013 in case 13 DHC 2, a hearing panel of the Disciplinary Hearing Commission suspended Defendant's law license for three years for failing on numerous occasions to participate in the Fee Dispute Resolution Program, failing to respond to multiple inquiries of the State Bar, neglecting client matters, collecting excessive fees, mishandling entrusted funds, and attempting to keep a client from speaking with the State Bar.

14. The hearing panel in 13 DHC 2 found that "Brown's continued failure to respond promptly to fee disputes and letters of notice and follow-up inquiries in grievance investigations has demonstrated a complete disregard for the legal profession's self-regulation process."

15. Defendant did not file an answer in 13 DHC 2 and did not appear or participate in the hearing before the Disciplinary Hearing Commission.

16. Defendant has not sought reinstatement or been reinstated from the suspension imposed in 13 DHC 2.

17. On August 12, 2013, the Chair of the Grievance Committee, on behalf of the Grievance Committee, issued Defendant a reprimand in grievance 13G0068. Defendant was reprimanded for failing to respond to the State Bar's inquiry in that

grievance and for failing to appear at the State Bar as ordered by the subpoena with which he was served. The reprimand noted that Defendant had failed to respond or promptly respond to grievances and fee dispute petitions on many occasions.

18. The complaint in 13 DHC 2 was filed on January 14, 2013 and was served on Defendant on January 17, 2013. The complaint in 13 DHC 2 included allegations that Defendant had failed to respond to multiple inquiries of the State Bar.

19. On March 29, 2013, while the complaint in 13 DHC 2 was pending, Defendant was served with the letter of notice in 13G0068 to which he failed to respond.

20. Notwithstanding entry of the order suspending his law license in June 2013 in 13 DHC 2 for conduct including multiple failures to respond to the State Bar, Defendant still had not cured his failure to respond to the State Bar in grievance file 13G0068 when the Grievance Committee considered the grievance at its meeting on July 18, 2013.

21. Defendant did not file an answer and did not appear or participate in the hearing before the Disciplinary Hearing Commission in the present case.

22. Despite a significant history of professional discipline, Defendant has refused to conform his conduct to the Rules of Professional Conduct. His continued violation of the Rules of Professional Conduct despite progressive professional discipline establishes a disregard for applicable professional standards and poses significant potential harm to the profession and the public.

23. The State Bar is entrusted with the regulation of the profession for the protection of the public. Effective self-regulation of the profession for the protection of the public requires and depends upon all members' participation in our system of self-regulation. An attorney who repeatedly refuses to be regulated or to participate in our profession's self-regulation poses significant potential harm to the profession and the public.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the Hearing Panel enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment.

2. The Hearing Panel has carefully considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and determines the following factors are present warranting consideration of suspension or disbarment:

a. Intent of Defendant to commit acts where the harm or potential harm is foreseeable;

b. Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;

c. Potential negative impact on the public's perception of the legal profession;

d. Effect of Defendant's conduct on third parties; and

e. Act of dishonesty, misrepresentation, deceit or fabrication.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(2) and concludes the following factor is present warranting consideration of disbarment:

a. Act of dishonesty, misrepresentation, deceit, or fabrication.

4. The Hearing Panel has considered all of the factors enumerated in 27 N.C. Admin. Code 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and determines the following factors are applicable:

a. Defendant's prior disciplinary offenses;

b. A pattern of misconduct;

c. Degree of experience in the practice of law; and

d. Imposition of other penalties or sanctions.

5. Defendant's conviction for failing to file his federal income tax return caused significant potential harm to the profession.

6. Defendant's violation of the Rules of Professional Conduct in this matter despite progressive prior attorney discipline establishes an ongoing refusal to comply with the Rules of Professional Conduct and causes significant potential harm to the public and the profession.

7. Defendant's failure to file an answer or participate in this disciplinary proceeding is part of an ongoing pattern of disregard for the profession, the profession's self-regulation, and the service to the public provided through appropriate attorney discipline, and causes significant potential harm to the profession and the public.

8. The Hearing Panel has considered all of the disciplinary options available to it and determined that disbarment is appropriate. The Hearing Panel has considered lesser alternatives and concludes that any discipline short of disbarment would not adequately protect the public for the following reasons:

a. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offense and the significant potential harm to the public and the legal profession caused by Defendant's conduct and ongoing pattern of behavior;

b. Entry of an order imposing discipline less than disbarment would not adequately protect the clients, the public, the profession, and the administration of justice, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State;

c. Defendant has failed to reform his conduct in response to lesser discipline, including multiple suspensions;

d. For the public to have confidence in the State Bar's regulation of the profession, lawyers who continuously engage in improper conduct must be removed from the profession; and

e. The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, the courts, and the legal profession; and that reinstatement will not be detrimental to the public or the integrity and standing of the legal profession. Disbarred lawyers are required to make such a showing before they may resume practicing law.

9. Due to the nature and extent of Defendant's conduct, the significant potential harm caused by his conduct to third parties, the public, and the profession, and Defendant's prior discipline, the Hearing Panel concludes that disbarment is the only discipline that will adequately protect clients, the public, the administration of justice, and the profession from future transgressions by this Defendant.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings and Conclusions Regarding Discipline, the Hearing Panel enters the following

ORDER OF DISCIPLINE

1. Defendant, William E. Brown, is hereby DISBARRED.

2. Defendant shall surrender 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 pay the administrative fees and costs of this proceeding, as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the administrative fees and costs within 30 days of service upon him of the statement of administrative fees and costs by the Secretary.

4. Within 15 days of the effective date of this Order, Defendant shall provide the State Bar with a physical address and telephone number at which Defendant is present and receives mail. Defendant must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.

5. Defendant has not been reinstated from his prior disciplinary suspensions and therefore should not have any law practice to wind-down. If Defendant has been engaged in the practice of law despite the active suspension of his law license, he shall comply with all provisions of 27 N.C. Admin. Code § 1B.0124 as set out therein.

6. In order to be reinstated to the practice of law in North Carolina, Defendant must prove by clear, cogent, and convincing evidence that:

- a. He has complied with all requirements of 27 N.C. Admin. Code § 1B.0125;
- b. He has satisfied all conditions for reinstatement from the suspensions imposed in 09 DHC 33 and 13 DHC 2, as stated in the orders filed on July 19, 2010 and June 7, 2013, respectively ;
- c. He has obtained a passing grade on a regularly scheduled written bar examination administered by the North Carolina Board of Law Examiners.

Signed by the Chair with the consent of the other Hearing Panel members, this the 24th day of February 2017.



Fred M. Morelock, Chair
Disciplinary Hearing Panel