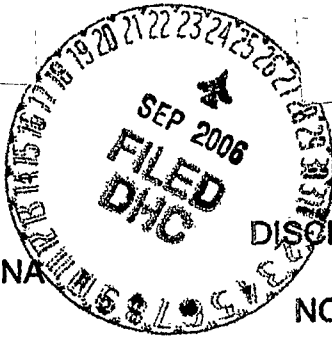


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WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
06 DHC 18

THE NORTH CAROLINA STATE BAR)
PLAINTIFF)

ORDER OF DISCIPLINE

v.)

THOMAS F. LOFLIN III and)
ANN F. LOFLIN, Attorneys)
DEFENDANTS)

This matter was considered by a Hearing Committee of the Disciplinary Hearing Commission composed of F. Lane Williamson, Chair, Tommy W. Jarrett and Donald G. Willhoit. Margaret Cloutier represented plaintiff. Defendants Thomas F. Loflin III and Ann F. Loflin appeared pro se. Defendants have agreed to waive a formal hearing in the above-referenced matter. The parties stipulate and agree to the discipline imposed herein and Defendants waive their rights to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this order.

The Chair of this Committee, based on the pleadings filed herein, upon motion of Plaintiff and pursuant to Rule 12(c) of the Rules of Civil Procedure and §.0114 of the State Bar Discipline and Disability Rules, entered Judgment on the Pleadings setting forth Findings of Fact and Conclusions of Law. The Judgment was signed by the Chair on August 29, 2006 and filed with the Clerk of the DHC on August 31, 2006. The Findings of Fact and Conclusions of Law contained in that Judgment are repeated below and incorporated herein.

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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, Thomas F. Loflin III, was admitted to the North Carolina State Bar on August 14, 1970 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. Defendant, Ann F. Loflin, was admitted to the North Carolina State Bar on August 14, 1971 and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

4. During the times relevant herein, Defendants actively engaged in the practice of law in the State of North Carolina and maintained a law office in Durham, Durham County, North Carolina.

5. Defendants unlawfully and willfully failed to file state individual income tax returns and/or pay state individual income taxes for tax years 1998, 1999, 2000, 2001, 2002 and 2003 as required by N.C.G.S. §§105-152 and 105-157.

6. On June 6, 2005, before the Honorable Robert Rader, Wake County District Court Judge presiding over the Wake County District Court, Defendant Thomas F. Loflin, III entered a plea of guilty to, and was found guilty of, six counts of Willful Failure to File North Carolina Income Tax Return, a misdemeanor under North Carolina General Statute §105-236(9).

7. On June 6, 2005, before the Honorable Robert Rader Wake County District Court Judge presiding over the Wake County District Court, Defendant Ann F. Loflin entered a plea of guilty to, and was found guilty of, six counts of Willful Failure to File a North Carolina Income Tax Return, a misdemeanor under North Carolina General Statute §105-236(9).

8. Willful failure to file a state income tax return or pay state income taxes when due is a misdemeanor under N.C.G.S. §105-236(9).

Based on the foregoing Findings of Fact, the Committee enters the following

CONCLUSIONS OF LAW

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

2. Defendants' foregoing actions constitute grounds for discipline pursuant to N.C.G.S. §84-28(b)(2) in that Defendants violated one or more of the Revised Rules of Professional Conduct in effect at the time of the actions as follows: by unlawfully and willfully failing to file and/or pay state income taxes when those taxes were due, Defendants committed criminal acts that reflect adversely on their 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).

3. In addition, Defendants' convictions in state court of Willful Failure to File Federal Income Tax Returns constitute misconduct and grounds for discipline in that such convictions are criminal offenses showing professional unfitness pursuant to N.C.G.S. §84-28 (b)(1) and N.C.A.C. 1B §.0115.

Based upon the foregoing Findings of Fact and Conclusions of Law and with the consent of the parties, the Hearing Committee also enters the following

FINDINGS REGARDING DISCIPLINE

1. Defendant Thomas Loflin's misconduct is aggravated by the following factors:

a. his conduct reflects a pattern of misconduct in that he failed to file his North Carolina State income tax returns and pay the taxes due in a timely manner over multiple years;

b. he has substantial experience in the practice of law; and

c. he obstructed in bad faith these disciplinary proceedings by intentionally failing to comply with the rules or orders of this disciplinary agency as articulated below.

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

a. absence of a prior disciplinary record;

b. imposition of other penalties; and

c. his good reputation in the community.

3. Defendant Ann Loflin's misconduct is aggravated by the following factors:

a. her conduct reflects a pattern of misconduct in that she failed to file her North Carolina State income tax returns and pay the taxes due in a timely manner over multiple years;

b. she has substantial experience in the practice of law; and

c. she has prior disciplinary offenses in that

i. she received a Public Censure from the DHC on October 24, 1980 in case number 80 DHC 7, and

ii. she was suspended from the practice of law for three years by Order of the DHC on April 6, 2004 in case number 03 DHC 17.

4. Defendant Ann Loflin's misconduct is mitigated by the following factors:

a. imposition of other penalties; and

b. her reputation in the community.

5. In both instances, the aggravating factors outweigh the mitigating factors.

6. Defendants' failure to file taxes on a timely basis and their subsequent criminal convictions have the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows disdain for their obligations as citizens and as officers of the court to obey the law. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole.

7. Defendant Thomas Loflin failed to attend a properly noticed deposition and failed to voluntarily comply with discovery requests of Plaintiff. Despite this Committee's order to comply with Plaintiff's discovery requests, Defendant Thomas Loflin only partially complied. His obstruction of these disciplinary proceedings warrants more severe discipline than had he demonstrated a cooperative attitude toward these proceedings.

8. A deposition of Defendant Ann Loflin was taken by Plaintiff and the expenses incurred by Plaintiff for that deposition were reasonable and necessary in the litigation of this case. The expense of the deposition should be taxed to the Defendant Ann Loflin.

9. The Hearing Committee has carefully considered all of the different forms of discipline available to it and finds that any of the sanctions less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendants and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, all found by clear, cogent and convincing evidence, the Hearing Committee enters the following

ORDER OF DISCIPLINE

1. The license to practice law in the State of North Carolina of Defendant Thomas F. Loflin III is hereby suspended for three years from the date this Order of Discipline is served upon him. The period of suspension is stayed for three years as long as Defendant complies and continues to comply with the conditions noted below. In addition to the terms of the stay, Defendant Thomas F. Loflin III shall serve an active period of suspension beginning December 1, 2006 and ending December 31, 2006.

2. The license to practice law in the State of North Carolina of Defendant Ann F. Loflin is hereby suspended for two years. The period of suspension is stayed for two years as long as Defendant complies and continues to comply with the conditions noted below. This suspension shall run at the expiration of the suspension in 03 DHC 17 and shall not alter in any manner the provisions of that order.

3. By January 10, 2007, Defendant Thomas Loflin shall provide to the Office of Counsel of the North Carolina State Bar an affidavit showing that during the period of active suspension he refrained from the practice of law, including an affirmation that he did not perform any service of any nature for current clients and did not accept any new retainer or engage in providing services for any new or potential client.

4. During the periods of stay, each Defendant individually shall comply with the following conditions:

a. Within 60 days of the date of service of this Order upon them, Defendants shall file any delinquent tax returns with the Internal Revenue Service and/or North Carolina Department of Revenue, as appropriate, for the tax years preceding the 2006 tax year. Within 30 days of filing such returns, Defendant shall provide to the Office of Counsel evidence of receipt of such returns by the Internal Revenue Service or the Department of Revenue.

b. By January 15, 2007, Defendants shall provide to the Office of Counsel proof of payment of all delinquent federal or state taxes, penalties and interest for the tax years preceding the 2006 tax year or copies of any agreements to pay all unpaid taxes, penalties and interest for those years. If Defendants enter into repayment agreements with the taxing authorities, Defendants shall comply with such repayment plans and provide to the Office of Counsel proof of compliance therewith within ten days of each payment date.

c. Defendants shall file state and federal tax returns for all future tax years on a timely basis and shall timely pay all amounts owed to the taxing authorities. Defendants shall provide written proof of filing and payment to the Office of Counsel within ten days of filing each return or request for extension and within ten days of each payment.

d. Defendants will execute any written waivers and releases necessary to authorize the Office of Counsel to confer with the Internal Revenue Service or the North Carolina Department of Revenue for the purpose of determining if Defendants have cooperated and complied with all requirements of this Order. Defendants will not revoke the waivers and releases at any time during the period of stay.

e. Defendants shall provide to the Office of Counsel copies of all correspondence sent to or received by them from any taxing authority about their tax obligations within ten days of receipt.

f. Defendants shall not violate any state or federal laws or any provisions of the Revised Rules of Professional Conduct during the period of the stayed suspension.

g. Defendants shall respond to all State Bar requests for information by the earlier of the deadline stated in the communication or within 30 days of the date of the communication, as required by Rule 8.1(b) of the Revised Rules of Professional Conduct.

h. Defendants shall not violate any provisions of the Revised Rules of Professional Conduct.

i. Defendants shall timely comply with all State Bar membership and Continuing Legal Education requirements.

j. Defendants shall keep the North Carolina State Bar membership department advised of their respective current home and business street (not P.O. Box) addresses and telephone numbers.

5. If either stay granted herein is revoked or the suspension of either Defendant's license is activated for any reason, before seeking reinstatement of his or her license to practice law, Defendant(s) must show by clear, cogent and convincing evidence that he or she has complied with each of the following conditions:

a. Submitted his or her license and membership card to the Secretary of the North Carolina State Bar within thirty days after the date of the order suspending his or her law license;

b. Complied with all provisions of 27 N.C.A.C. 1B § .0124 of the State Bar Discipline and Disability Rules on a timely basis following the order suspending his or her law license;

c. Complied with the conditions set forth in Paragraph 4 (a) through (h) above.

6. Defendants are taxed with the costs of this action. Defendant Ann Loflin is taxed with the costs of her deposition taken on September 1, 2006. The costs shall be paid within thirty days of service of the notice of costs upon the Defendants by the Secretary.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Committee, this 25th day of September, 2006.

F. Lane Williamson
F. LANE WILLIAMSON, CHAIR
HEARING COMMITTEE

Consented to:

Thomas F. Loflin III
Thomas F. Loflin III, Defendant

Ann F. Loflin
Ann F. Loflin, Defendant

Margaret Cloutier
Margaret Cloutier, Deputy Counsel
Counsel for Plaintiff