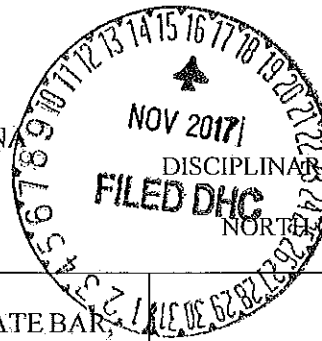


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
17 DHC 34

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

COWLES LIIPFERT, Attorney,

Defendant

CONSENT ORDER OF  
DISCIPLINE

This matter came before a hearing panel of the Disciplinary Hearing Commission composed of N. Hunter Wyche, Chair, R. Lee Farmer, and Christopher R. Bruffey. Maria J. Brown represented Plaintiff. Alan Schneider represented Defendant. Defendant waives a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. By consenting to the entry of this order, Defendant knowingly, freely, and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based on the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent, and convincing evidence the following:

#### 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, Cowles Liipfert (hereinafter "Defendant" or "Liipfert"), was admitted to the North Carolina State Bar on 15 August 1964 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 the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Winston Salem, Forsyth County, North Carolina.

4. During calendar years 2012, 2013, and 2014, Defendant received sufficient income to require him to file federal and state individual income tax returns.

5. For each of the tax years 2012, 2013, and 2014, Defendant knew the deadlines for the filing of his state income tax returns and for payment of any tax liability.

6. Defendant failed to file within the times required by law his state individual income tax return showing his tax liability for tax years 2012, 2013, and 2014.

7. Defendant failed within the times required by law to pay his state individual income tax liability due for tax years 2012, 2013, and 2014, except for the following amounts, which were either withheld or paid by him in a timely manner:

Year	Total Liability	Amount Paid or Withheld
2012	\$6,423	\$3,695
2013	\$5,371	\$1,410
2014	\$6,076	\$1,250

8. Defendant's failure to file the required state income tax returns and his failure to timely pay tax liabilities due for tax years 2012, 2013, and 2014 was willful.

9. On 10 May 2017, in Wake County District Court, in *North Carolina v. Cowles Liipfert*, Wake County file nos. 17 CR 201065, 66, and 67, Defendant entered a plea of guilty to, and was found guilty of, three counts of Willful Failure to File North Carolina Income Tax Return, a misdemeanor under N.C. Gen. Stat. § 105-236(A)(9).

10. The crimes of which Defendant was convicted are criminal offenses showing professional unfitness as defined in 27 N.C. Admin. Code 1B.0103(17).

Based on the foregoing Findings of Fact, the Hearing Panel enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Cowles Liipfert, and over the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline as follows:

- (a) Pursuant to N.C. Gen. Stat. § 84-28(b)(1) and 27 N.C. Admin. Code 1B.0119(a), in that Defendant's convictions in *North Carolina v. Cowles Liipfert*, Wake County file nos. 17 CR 201065, 66, and 67, conclusively establish his guilt of and conviction of criminal offenses showing professional unfitness; and

- (b) Pursuant to N.C. Gen. Stat. § 84-24(b)(2) in that Defendant violated the Rules of Professional Conduct by failing to timely file and pay his state and federal income tax returns for tax years 2012, 2013, and 2014, thereby committing criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 8.4(b).

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel enters the following:

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant has since filed his 2012, 2013, and 2014 North Carolina state income tax returns.
2. Defendant paid the North Carolina State taxes due.
3. Defendant paid the \$3,000.00 fine assessed by the court.
4. Willful failure to file a tax return is expressly identified in the State Bar's definition of criminal offenses showing professional unfitness. This offense inherently involves a representation to taxing authorities that one did not earn sufficient income to meet the threshold required to file a tax return, which was not accurate in Defendant's case.
5. When lawyers violate the law in their personal affairs, it brings disrepute upon the legal profession and undermines public confidence in lawyers.
6. Defendant has no prior professional discipline.
7. Defendant has been cooperative in this disciplinary process. He has timely and fully responded to inquiries of the State Bar. Defendant has acknowledged the wrongful nature of his conduct, stipulated to the violations of the Rules of Professional Conduct, and consented to this imposition of discipline.
8. Defendant enjoys an excellent reputation in the legal community and the community at large.
9. Defendant experienced serious financial issues for several years due to health and professional problems which are being resolved, and in January 2017 he was able to pay in full the balance due on his 2012, 2013 and 2014 North Carolina income tax returns.

Based on the foregoing Findings of Fact, Conclusions of Law and Findings of Fact 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. In addition, the Hearing Panel has considered all of the factors enumerated in 27 Admin. Code 1B.0116(f)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension of Defendant's license:

- (a) Negative impact of the Defendant's actions on the public's perception of the profession.

2. The Hearing Panel has considered all of the factors enumerated in 27 Admin. Code 1B.0116(f)(2) of the Rules and Regulations of the North Carolina State Bar and concludes no factors are present in this instance that would warrant disbarment.

3. The Hearing Panel has considered all of the factors enumerated in 27 Admin. Code 1B.0116(f)(3) of the Rules and Regulations of the State Bar and finds the following factors are applicable:

- (a) Absence of prior disciplinary offenses;
- (b) Absence of any selfish motive;
- (c) Timely good faith efforts to make restitution or to rectify consequences of misconduct;
- (d) Full and free disclosure to the Hearing Panel and cooperative attitude toward the proceedings;
- (e) Excellent character and reputation; and
- (f) Imposition of other penalties and sanctions.

4. The Hearing Panel has considered lesser alternatives and finds that a censure, reprimand, or admonition would be insufficient discipline because of the potential harm to the legal profession caused by Defendant's conduct.

5. The Hearing Panel finds that, though Defendant's conduct is serious enough to warrant more than a censure, it does not warrant an active suspension of his license.

6. The Hearing Panel finds that a stayed suspension of Defendant's law license is warranted for the following reasons:

- (a) Defendant's conduct reflects adversely on his trustworthiness or fitness as a lawyer;

- (b) Entry of an order imposing less severe discipline would fail to acknowledge the seriousness of the misconduct and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

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

#### ORDER OF DISCIPLINE

1. The law license of Defendant, Cowles Liipfert, is hereby suspended for two (2) years effective from the date this Order of Discipline is served upon him. The period of suspension is stayed for two (2) years as long as Defendant complies and continues to comply with the following conditions:

- (a) Defendant shall 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 whether Defendant has cooperated and complied with all requirements of this Order. Defendant will not revoke these waivers and releases at any time during the period of stay;
- (b) Defendant shall timely file during the period of stay his federal and state income tax returns along with any associated schedules and attachments thereto and shall provide proof of these filings to the Office of Counsel within 30 days of filing;
- (c) Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
- (d) Defendant shall timely pay all taxes, fines, penalties, and estimated taxes during the stay period;
- (e) Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and shall notify the Bar of any change in address within ten (10) days of such change;
- (f) Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty (30) days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;

- (g) Defendant shall promptly accept service of all certified mail from the State Bar that is sent to him;
- (h) Defendant shall respond to all communications from the Internal Revenue Service and the North Carolina Department of Revenue; and
- (i) Defendant shall timely comply with all State Bar membership and Continuing Legal Education requirements.

2. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 1(a) – (i) above, the stay of the suspension may be lifted as provided in Admin. Code 1B.0118 of the North Carolina State Bar Discipline and Disability Rules.

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

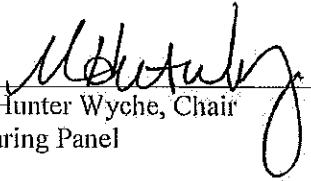
- (a) Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty (30) days after the date of the order lifting the stay and/or activating the suspension of his law license;
- (b) Defendant complied with all provisions of 27 Admin. Code 1B.0128 of the State Bar Discipline and Disability Rules following the order lifting the stay and/or activating the suspension of his law license;
- (c) Defendant kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten (10) days of such change;
- (d) Defendant responded to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty (30) days of receipt or by the deadline stated in the communication, whichever is sooner, and has participated in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;
- (e) Defendant promptly accepted all certified mail sent to him by the State Bar;
- (f) That at the time of his petition for stay, Defendant is current in payment of all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges the State

Bar is authorized to collect from him, and including all judicial district dues, fees, and assessments.


- (g) That at the time of his petition for stay, there is no deficit in Defendant's completion of mandatory Continuing Legal Education (CLE) hours, in reporting of such hours, or in payment of any fees associated with attendance at CLE programs.
- (h) Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
- (i) Defendant has paid the administrative fees and costs of this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (j) Defendant has complied with any other conditions deemed necessary for reinstatement imposed by the Hearing Panel pursuant to the order lifting the stay of the suspension of Defendant's law license.

4. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary which Defendant shall pay within thirty (30) days of service of the notice of costs upon the Defendant.

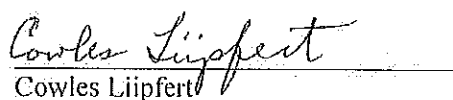
Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Panel, this is the 16<sup>th</sup> day of November, 2017.

  
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N. Hunter Wyche, Chair  
Hearing Panel

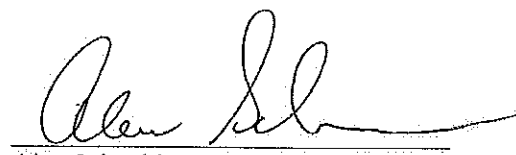
CONSENTED TO BY:



Maria J. Brown  
Attorney for Plaintiff



Cowles Liipfert  
Defendant



Alan Schneider  
Attorney for Defendant