

10591

vs.

CONSENT ORDER OF DISCIPLINE

ELISABETH ANNE WYCHE, ATTORNEY
Defendant

THIS MATTER, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to section 14(H) of Art. IX of the Discipline & Disbarment Rules of the North Carolina State Bar; and it appearing and that both parties agreed to waive a finding of probable cause by the Grievance Committee, that both parties have agreed to waive a formal hearing in this matter and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to the discipline imposed, the Hearing Committee therefore enters 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, Elisabeth Anne Wyche, was admitted to the North Carolina State Bar in 1982, 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 Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all of the periods referred to herein, Wyche was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Hendersonville, Henderson County, North Carolina.

4. Wyche did not file timely federal or state income tax returns for the calendar years 1989, 1990 and 1991.

5. On August 5, 1993, Wyche pled guilty to three counts of

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misdeemeanor failure to file state income tax returns for the calendar years 1989, 1990 and 1991.

6. On August 5, 1993, Wyche was convicted of three counts of misdemeanor failure to file state income tax returns for the calendar years 1989, 1990 and 1991.

7. As of the date of this order, Wyche had filed her state and federal income tax returns.

8. Wyche has paid all state income taxes owed for the years 1989 - 1991, as well as all interest and penalties.

9. Wyche's misconduct in this matter is mitigated by the fact that she has no prior discipline, that she had personal and emotional problems at the time of her failure to file her tax returns, that she cooperated with the N.C. State Bar, that she has a good character and reputation and that she previously received punishment in the criminal case.

10. Wyche's misconduct is aggravated by the facts that she engaged in multiple offenses, that she had not filed her 1989 - 1991 tax returns or paid her taxes for those years prior to December 1993 and by the fact that her failure to file returns was motivated by a dishonest or selfish motive.

Based upon the foregoing Findings of Fact, the Hearing Committee hereby makes the following

CONCLUSIONS OF LAW

1. By failing to file timely state and federal income tax returns for 1989, 1990 and 1991, Wyche engaged in conduct involving dishonesty in violation of Rule 1.2(C) and committed criminal acts which reflect adversely on her honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 1.2(B) of the Rules of Professional Conduct.

Based upon the consent of the parties and the foregoing Findings of Fact and Conclusions of Law, the Committee hereby enters the following:

ORDER OF DISCIPLINE

1. The Defendant, Elisabeth Anne Wyche, is hereby suspended from the practice of law for three years, with all but six months of the suspension stayed for three years on the following conditions:

- a. The Defendant shall comply with any treatment or therapy program or plan recommended by her psychologist, Charlene Gallenberger, PhD, or successor counselor or physician. The Defendant shall submit written reports signed by Dr. Gallenberger, to the Counsel of the North Carolina State

Bar each quarter throughout the two-year stay period, or the completion of therapy, whichever period is longer, confirming that the Defendant is complying with the treatment or therapy plan. The first quarterly report shall be due on April 1, 1994, and the remaining reports shall be received in the Office of the Counsel on the following dates: July 1, Oct. 1, Jan. 1 and April 1 until the end of the three-year stay period.

If the Defendant completes the course of recommended treatment or therapy prior to the end of the three-year stay period, the Defendant shall provide a written report to the Counsel of the N.C. State Bar signed by her psychologist confirming that such treatment has been successfully completed.

- b. The Defendant shall violate no laws and no provisions of the Rules of Professional Conduct.
 - c. The Defendant shall pay all taxes, interest and penalties owed relating to her 1989 - 1991 federal income tax returns prior to the end of the three-year stay period.
2. The Defendant shall pay the costs of this proceeding.

This the 10th day of February, 1994.

Maureen D. Murray
Maureen D. Murray, Chair
Disciplinary Hearing Committee

Robert B. Smith, Jr.
R. B. Smith

James Lee Burney
James Lee Burney

Seen and consented to:

Elisabeth Anne Wyche
Elisabeth Anne Wyche, Defendant

Joseph B. Cheshire V, Defendant's attorney

Alan M. Schneider
Alan M. Schneider, Defendant's attorney

Carolyn Bakewell
Carolyn Bakewell, Plaintiff's attorney