

19687

V.

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

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6. Hairston failed to file his individual state income tax returns for tax years 1998, 2000, 2001 and 2002 at the time or times required by law.

7. Hairston failed to pay any individual state income tax liability due for tax years 1998, 2000, 2001 and 2002 at the time or times required by law.

8. Hairston's failure to file the required state income tax returns and pay any final tax liabilities due on a timely basis for each tax year 1998, 2000, 2001 and 2002 was willful.

9. Willful failure to file or pay a state income tax when due is a Class 1 misdemeanor under N.C. Gen. Stat. § 105-236(9).

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee of the Disciplinary Hearing Commission and the hearing committee has jurisdiction over Hairston and the subject matter.

2. Hairston's conduct, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(a) & (b)(2) in that Hairston violated the Revised Rules of Professional Conduct as follows:

- (a) By failing to timely file the required state income tax returns or timely make the required state income tax payments, Hairston committed criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer 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 foregoing Findings of Fact, the Conclusions of Law, and the consent of counsel, the hearing committee hereby makes the following:

FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE

1. Hairston's misconduct is aggravated by the following factors:

- (a) Multiple violations; and
- (b) Hairston received an Admonition issued by the Grievance Committee in May 2001 and received a Letter of Warning issued by the Grievance Committee in November 2004.

2. Hairston's misconduct is mitigated by the following factors:

- (a) Absence of a dishonest or selfish motive;
- (b) Cooperative attitude toward the disciplinary proceedings;
- (c) Good character and reputation;
- (d) Remorse.

3. The mitigating factors outweigh the aggravating factors.

4. Willful violations of criminal laws by an attorney causes substantial harm to the profession, especially those members of the profession who have a professional responsibility to advise members of the public to follow those laws.

5. Hairston's conduct is serious enough to warrant more than a Censure, but does not warrant an active suspension of his license.

BASED UPON the foregoing Findings of Fact Regarding Discipline and the consent of the parties, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. The license of the defendant, James E. Hairston, Jr., is hereby suspended for a period of two years.

2. The two-year suspension of Hairston's license is stayed for a period of three years on the following conditions:

(a) Hairston shall not violate any local, state or federal laws during the period of stayed suspension;

(b) Hairston shall not violate any provisions of the Revised Rules of Professional Conduct during the period of stayed suspension;

(c) Hairston shall timely pay all taxes, fines, penalties and estimated taxes during the stay period and shall timely file all state and federal income tax returns, and attachments and schedules thereto;

3. If the stay of the suspension of Hairston's law license is lifted, the DHC may enter an order providing for the imposition of such conditions as it deems necessary for reinstatement of Hairston's law license at the end of the suspension period.

4. Hairston is taxed with the costs of this action as assessed by the Secretary and shall pay those costs within 90 days of service of notice of those costs.

Signed by the chair with the consent of the other hearing committee members, this

the 26 day of Sept. 2005.

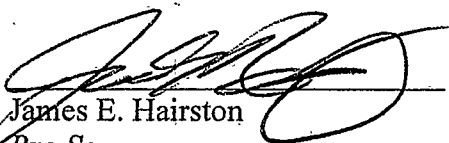


W. Steven Allen, Sr., Chair
Hearing Committee

CONSENTED TO:



A. Root Edmonson
Deputy Counsel



James E. Hairston
Pro Se