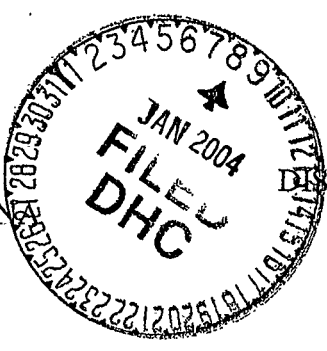


2401

WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
03 DHC 1

THE NORTH CAROLINA STATE BAR)	
Plaintiff)	
v.)	FINDINGS OF FACT
)	CONCLUSIONS OF LAW
)	AND ORDER OF
)	DISCIPLINE
WALTER T. JOHNSON, JR. ATTORNEY)	
Defendant)	

THIS MATTER came on to be heard and was heard before a duly appointed hearing committee of the Disciplinary Hearing Commission composed of Richard T. Gammon, Chair; Betty Ann Knudsen and Charles M. Davis on Aug. 21 – 23, 2003. The Defendant, Walter T. Johnson, Jr., was represented by W. Erwin Fuller Jr. and Henry E. Frye. Carolin Bakewell represented the State Bar. Based upon the stipulations of the parties and the evidence introduced at trial, the hearing committee hereby makes 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, Walter T. Johnson, Jr. (Johnson), was admitted to the North Carolina State Bar in 1964, 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 relevant hereto, Johnson was engaged in the practice of law in the City of Greensboro, North Carolina.

4. In November 1999, Johnson undertook to represent William McGhee (McGhee) regarding his efforts to obtain parole from prison. Johnson was paid a \$3,800 fee for his services in late 1999.

5. At or shortly after the time he agreed to represent McGhee, Johnson knew or should have known that McGhee had been convicted of conspiracy to traffic in cocaine and assault on a law enforcement officer, had prior convictions of second degree murder and assault, was in a medium custody prison unit, had accumulated approximately 15 infractions while in prison, had failed or refused to participate in rehabilitation programs while in prison, and had been denied parole several times previously.

6. At the time that Johnson agreed to represent McGhee, the North Carolina Parole Commission was granting immediate parole to inmates in medium custody only in very rare circumstances.

7. Johnson had handled numerous parole cases prior to 1999 and was aware of the Commission's position regarding parole of inmates in medium custody. Of the many inmates whom Johnson had represented over the years, only one had successfully obtained parole "to the street" from medium custody. Johnson thus knew that it would be very difficult, if not impossible, to obtain immediate parole for McGhee under the circumstances of his case.

8. Johnson failed to advise McGhee in a timely manner that it would be very difficult, if not impossible, to achieve McGhee's release on parole given the facts and circumstances of his case.

9. On May 10, 2000, the Parole Commission considered McGhee's case and refused to grant him parole, even though the Parole Commission had previously advised McGhee in writing that his next parole review date would be May 15, 2000. Neither Johnson nor his staff requested a parole review hearing and no parole hearing was held respecting McGhee in May 2000. McGhee's request for parole was considered solely based on the records already on file with the Commission.

10. Although Johnson and a non-lawyer assistant, John Stewart (Stewart), prepared a three page report regarding McGhee, the report was not time stamped by the Parole Commission until May 16, 2000, six days after McGhee's request for parole had been reviewed and denied. The three page report consisted primarily of information gathered from the public records and did not include any medical reports concerning the poor health of McGhee and his wife, although these were factors that might have supported McGhee's parole petition.

11. Johnson did not tell McGhee that the three page report was not received by the Parole Commission until after McGhee's request for parole had been denied.

12. Johnson failed to keep McGhee reasonably informed about his case and failed to promptly comply with reasonable requests for information.

13. On June 19, 2000, McGhee discharged Johnson and directed him to refund the unearned portion of the fee.

14. Although Johnson acknowledged receiving the June 19, 2000 letter from McGhee, Johnson did not withdraw from the case as directed by McGhee nor did he refund any portion of the \$3,800 fee.

15. Johnson's refusal to withdraw as McGhee's attorney was motivated at least in part by a desire to avoid refunding a portion of the fee paid to him.

16. After mid-June 2000, Johnson performed little or no additional work for McGhee until April 8, 2001, when Johnson wrote to McGhee to inquire about his prison status.

17. On April 12, 2001, McGhee responded to Johnson's April 8 letter and again discharged him and requested a refund of the \$3,800 fee.

18. Johnson did not withdraw from the case as directed nor did he refund any portion of the \$3,800 fee that he had been paid.

19. On May 8, 2001, despite the fact that Johnson knew that McGhee had discharged him, Johnson sent Stewart to make a presentation on McGhee's behalf to the Parole Commission. The Commission again denied McGhee's request for parole.

20. Neither Johnson nor Stewart had any contact with McGhee after the May 8, 2001 parole review date and no refund of the fee was ever made.

21. On or about Sept. 14, 2000, Susan Swears (Ms. Swears) paid Johnson a \$3,800 fee to assist her husband, Stephen Swears (Swears), to obtain parole from prison.

22. Johnson knew on or shortly after Sept. 14, 2000 that Swears was in a medium custody prison in Florida, that he had pled guilty to a serious assault, and that he had been denied parole several times prior to 2000. Johnson also knew that it would be very difficult, if not impossible, to achieve Swears' direct release on parole under the circumstances of his case.

23. Johnson failed to advise Swears or Ms. Swears in a timely fashion that it would be very difficult, if not impossible, to obtain immediate parole for Swears under the circumstances of his case.

24. In September 2000 Johnson agreed to speak to Swears by telephone before his next parole review date in March 2001. Swears desired to speak to Johnson about several legal issues of concern to him.

25. Johnson never spoke with Swears in person or by telephone.

26. Stewart appeared on Swears' behalf at a parole review hearing in March 2001. On or about March 13, 2001, the N.C. Parole Commission denied Swears' request for parole.

27. Johnson ignored a number of letters and requests for information from Ms. Swears and Swears after the March 2001 parole hearing.

28. Stewart spoke to Swears by telephone on one occasion, in May 2001, after Swears had already been denied parole. As a non-lawyer, however, Stewart was unable to address Swears' legal questions.

29. On Aug. 4, 2001, Ms. Swears discharged Johnson and requested a refund of the fee paid to him, at least a portion of which had not been earned.

30. Johnson initially refused to return any portion of the \$3,800 fee.

31. After Ms. Swears filed a fee dispute resolution petition with the N.C. State Bar, Johnson agreed to refund a portion of the fee, but did not make the payments as promised. Johnson ultimately refunded the entire \$3,800 fee, but only after the State Bar filed its formal complaint herein.

32. Johnson's failure to make a timely refund of the unearned portion of the fee hampered Ms. Swears' ability to retain other counsel to represent Swears.

33. On or about Feb. 26, 1997, Larry Eugene Allred (Allred) was convicted of four counts of second degree kidnapping, three counts of armed robbery, and two counts of robbery with a dangerous weapon.

34. Shortly after the trial, Johnson undertook to appeal from the conviction on Allred's behalf.

35. Johnson delegated the work on Allred's appeal to an associate, Jacqueline Stanley (Ms. Stanley). Ms. Stanley filed the record on appeal in Allred's case 20 days after it was due, without first obtaining an extension of time.

36. The brief that Ms. Stanley filed for Allred in January 1998 violated the North Carolina Rules of Appellate Procedure in at least the following respects:

- a. The statement of facts in Johnson's brief was not supported by references to the record on appeal.
- b. The brief did not contain assignments of error and references to the pages in the record where the assignments of error appeared.
- c. The final assignment of error was deemed abandoned because it was not supported with argument.

37. Johnson failed to review the brief and record on appeal before they were filed and he failed to adequately supervise Ms. Stanley's activities regarding the Allred case.

38. On or about December 5, 1998, Johnson undertook to pursue post-conviction relief on behalf of Jeffrey Rogers (Rogers).

39. Rogers' mother, Marie Rogers (Ms. Rogers), paid Johnson \$3,800 for his services.

40. In 1996, prior to retaining Johnson's services, Rogers had filed a habeas action in the U.S. District Court for the Western District of North Carolina. The habeas case was still pending in late 1998 when Johnson undertook to represent Rogers.

41. Johnson did not file any pleadings or briefs in the federal habeas action, nor did he take any other effective action to assist Rogers.

42. The federal court ruled on the habeas petition in November 2000 and Rogers filed a notice of appeal on his own behalf.

43. In March 2001, Johnson attempted to file a notice of appearance in the U.S. Court of Appeals for the Fourth Circuit on Rogers' behalf. Shortly afterward, however, Rogers discharged Johnson, who filed no other documents in the appellate proceeding on Rogers' behalf.

44. Johnson did not respond in a reasonable fashion to attempts by Rogers and Ms. Rogers to determine the status of the case and did not keep Rogers informed about the case.

45. After he withdrew as Rogers' attorney, Johnson failed to promptly refund the unearned portion of the \$3,800 fee, despite promises that he would do.

46. In December 2001, Ms. Rogers filed a fee dispute resolution petition with the North Carolina State Bar. After the petition was filed, Johnson

ultimately refunded approximately \$430 of the \$3,800 fee paid by Ms. Rogers for her son.

47. On May 9, 1995 Orlando T. Lea (Lea) was convicted of attempted second degree murder and several assault charges. Lea was sentenced only on the attempted second degree murder charge and the court continued judgment on the assault convictions.

48. In March 1999, Lea's girlfriend, Lisa Lytle, paid Johnson \$3,800 to pursue post-conviction relief for Lea.

49. Johnson failed to file a motion for appropriate relief or take other effective action on Lea's behalf between March 1999 and May 2000.

50. On May 8, 2000, Johnson filed a motion for appropriate relief for Lea. The motion was filed about a month after the N.C. Court of Appeals entered an opinion in another case which held that the crime of attempted second degree murder did not exist in North Carolina.

51. In response to Johnson's motion for appropriate relief, the State filed a brief requesting the court to pray judgment on the assault convictions against Lea.

52. On May 15, 2000, a hearing was held on Lea's motion for appropriate relief. The court granted Lea's motion for appropriate relief as to the attempted second degree murder convictions, but also granted the state's motion to pray judgment on the assault charges. The written order in the case was filed on June 16, 2000.

53. Johnson agreed to appeal from the June 16 order granting the state's motion to pray judgment, but failed to perfect the appeal or prepare a record on appeal in a timely fashion.

54. Johnson also failed to respond to numerous letters and inquiries about the status of the case from Lea's aunt, Leona Dove, who served as contact or liaison between Johnson and Lea.

55. On Aug. 6, 2001, after he received notice that Lea had complained to the North Carolina State Bar about his failure to pursue the appeal, Johnson filed a petition for writ of certiorari on Lea's behalf.

56. In approximately August 2000, Johnson undertook to represent Frances Barnack (Barnack) regarding a domestic case. The parties signed a fee contract whereby Johnson agreed to file an action for divorce and complete a separation agreement for a \$1,500 flat fee.

57. Barnack's domestic case turned out to be considerably more complicated than Johnson or Barnack had initially contemplated and Johnson or Ms. Stanley represented Barnack in a domestic violence action and disputes over custody and other issues.

58. Although Barnack was eligible to seek divorce on Sept. 17, 2001, Johnson did not file a complaint for divorce on her behalf.

59. Johnson failed to respond in a reasonable and timely manner to Barnack's requests for information and failed to keep her advised of the status of her case.

60. On or about Feb. 26, 2001, Cecelia Davis (Ms. Davis), retained Johnson's services to represent her son, Brandon Davis (Davis), regarding first degree murder and drug charges then pending against Davis.

61. Ms. Davis ultimately paid Johnson \$12,500 of a total contemplated fee of \$25,000 for her son's case.

62. After a hearing in October 2001, Davis became dissatisfied with Johnson's services and orally discharged him.

63. Johnson did not withdraw as Davis' attorney and, on Nov. 12, 2001, Davis discharged Johnson in writing and requested a refund of the unearned portion of the fee.

64. Johnson again failed to withdraw and failed to return any portion of the fee. He continued attempting to negotiate a possible plea bargain for Davis with the assistant district attorney assigned to Davis' case.

65. In December 2001, Johnson negotiated a plea to second degree murder for Davis, although he had not been authorized to do so by Davis and, in fact, had been discharged as Davis' attorney.

66. On Dec. 31, 2001, Johnson wrote to Davis, explained the plea bargain that he had arranged, and advised Davis that he (Johnson) would withdraw if Davis declined the plea. Johnson told Davis that he would not refund any part of the fee since Johnson had effectively saved Davis' life by negotiating a plea to second degree murder.

67. Johnson's refusal to withdraw as Davis' attorney was motivated at least in part by a desire to avoid refunding a portion of the fee paid to him.

68. Davis rejected the plea offer and Johnson withdrew as Davis' attorney in January 2002. Johnson did not refund any portion of the fee paid to him by Ms. Davis.

69. On Sept. 8, 1999, Johnson undertook to assist Wendell Corey Cole (Cole) in seeking post-conviction relief from several convictions for robbery with a dangerous weapon dating from 1993.

70. Specifically, Cole sought relief from a February 1993 conviction on the grounds that his trial attorney had failed to warn him that if the criminal charges were resolved after December 1992, when Cole turned 21, he would not receive the benefit of the CYO (committed youthful offender) statute then in existence (the "CYO argument").

71. Cole also sought relief from additional robbery charges to which he pled guilty in August 1993 on the grounds that he had newly discovered alibi testimony (the "alibi argument").

72. Beverly M. Cole (Ms. Cole), Cole's mother, paid Johnson \$3,800 as an attorney fee.

73. Cole finished serving his prison sentence for the February 1993 conviction in April 1999, a fact which Johnson knew or should have known about the time he agreed to represent Cole. Johnson did not warn Cole that it would likely be very difficult to obtain any effective relief regarding the February 1993 conviction since Cole had completed serving the prison sentence.

74. Johnson also failed to warn Cole that it would be very difficult to obtain any relief from the August 1993 convictions, in light of his guilty plea to those charges.

75. On Sept. 11, 2001, Johnson filed a motion for appropriate relief on Cole's behalf in connection with the February 1993 conviction. The only basis for relief raised in the motion was the "CYO argument" of which Johnson had been aware since April 1999. The motion did not seek relief from the August 1993 conviction based on the "alibi argument" or any other theory.

76. On Dec. 20, 2001, the superior court denied Cole's motion for appropriate relief on the grounds, among other things, that the motion was moot since Cole had finished serving the sentence on the February 1993 conviction.

77. Meanwhile, Johnson failed to communicate with Ms. Cole and Cole and failed to keep them apprised of the status of the case.

78. On or about Feb. 5, 2002, Ms. Cole discharged Johnson. Thereafter, Johnson failed to refund the unearned portion of the fee paid to him by Ms. Cole.

79. On or about Sept. 3, 2002, Ms. Cole filed a grievance against Johnson with the N.C. State Bar.

80. On Sept. 26, 2002, Johnson was served with the State Bar's letter of notice and substance of grievance regarding Ms. Cole's grievance. Pursuant to the N.C. State Bar's Discipline & Disability Rules, Johnson's response was due no later than Oct. 11, 2002.

81. Johnson did not file a response to the letter of notice and substance of grievance until November 4, 2002.

82. Johnson did not file timely employee withholding returns for the period 2000 – 2002 although he employed at least one employee during this period and was required to file withholding returns.

83. Johnson did not pay employee withholding taxes on a timely basis between Jan. 1, 2000 – Dec. 31, 2002 and did not hold the funds which should have been paid to the taxing authorities on his employees' behalf separate and apart from the other funds relating to his law practice.

84. Johnson did not maintain a sufficient balance in his office operating account between Jan. 1, 2000 and Dec. 31, 2002 to pay the amounts owed to the taxing authorities in employee withholding taxes for the period 2000 – 2002.

85. As of July 2003, Johnson's tax liability to the federal government, including taxes, penalties and interest, exceeded \$500,000. Johnson was aware prior to 1996 that the state and federal governments had filed substantial liens against him.

86. On Oct. 17, 1997, Johnson's mother, Gertrude Johnson, died. At the time of her death Ms. Johnson owned four rental properties in Guilford County. Her only heirs were Johnson and a daughter, Patricia Johnson.

87. On Jan. 6, 1998 Johnson renounced any interest he would otherwise have had in his mother's estate.

88. On March 28, 2000, in his role as administrator of his mother's estate, Johnson deeded the four tracts of rental property to his four children.

89. On April 2, 2000, Johnson's children deeded the four tracts of rental property to a corporation known as WGJ Properties, Inc. Johnson's four children were shareholders of WGJ Properties.

90. Johnson renounced his interest in his mother's estate and arranged the conveyance of the four tracts of rental properties to his children and then to WGJ Properties for the purpose of delaying or hindering the federal government's efforts to collect personal income taxes owed by Johnson to the IRS.

91. Johnson failed to file timely personal income tax returns with the state tax authorities for the years 1996 – 2001, inclusive. Johnson failed to file timely personal income tax returns with the Internal Revenue Service for the years 1997 – 2001, inclusive.

92. Johnson's failure to file timely income tax returns was knowing and willful.

Based upon the foregoing Findings of Fact, the hearing committee hereby enters the following:

CONCLUSIONS OF LAW

1. By failing to advise McGhee and Swears in a timely fashion that it would be very difficult, if not impossible, for them to achieve parole, Johnson failed to explain the matter to the extent necessary to permit the clients to make informed decisions regarding the representation in violation of Rule 1.4(b).

2. By accepting and retaining a substantial fee on behalf of Swears, McGhee and Cole when he knew or should have known that it was very unlikely that the clients' desired result could be achieved, Johnson accepted clearly excessive fees in violation of Rule 1.5 and engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

3. By failing to take appropriate measures to ensure that the written package for McGhee was received at the Parole Commission prior to his May 2000 parole review date and by failing to include in the submission any medical records regarding McGhee or his wife, Johnson neglected his client's case in violation of Rule 1.3.

4. By failing to return the unearned portion of the \$3,800 fee paid to him after McGhee discharged him in June 2000, Johnson retained a clearly excessive fee in violation of Rule 1.5.

5. By continuing to act as attorney for McGhee and Brandon Davis after he had been discharged, Johnson failed to withdraw as instructed by his clients, in violation of Rule 1.16(a)(4).

6. By failing to keep Swears, Barnack, Cole, Rogers and Lea reasonably informed about the status of their cases and by failing to promptly respond to their requests for information, Johnson violated Rule 1.4(a).

7. By failing to return the unearned portion of the \$3,800 fee at the conclusion of the representation, Johnson retained a clearly excessive fee in violation of Rule 1.5.

8. By failing to file the record on appeal in Allred's case in a timely fashion, Johnson neglected a client matter in violation of Rule 1.3.

9. By filing an appellate brief in Allred's case which failed to comply with the N.C. Rules of Appellate Procedure in several important respects, Johnson undertook a legal matter without adequate preparation in violation of Rule 1.1(b).

10. By failing to take timely steps to pursue post-conviction relief for Lea and by failing to timely seek appellate review of the order praying judgment on the assault convictions, Johnson neglected a client matter in violation of Rule 1.3.

11. By failing to take timely, effective action to file a complaint for divorce on Barnack's behalf, Johnson neglected a client matter in violation of Rule 1.3.

12. By failing to refund the unearned portion of the fee after he was discharged by Jeffrey Rogers, Brandon Davis and Corey Cole, Johnson charged or retained an excessive fee in violation of Revised Rule 1.5.

13. By negotiating a plea on Davis' behalf after he had been discharged and when he had no authority to act on Davis' behalf, Johnson engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

14. By willfully failing to file timely personal income tax returns with the state and federal governments for the years 1997, 1998 and 2000, Johnson engaged in criminal conduct that reflects adversely on his honesty, fitness or trustworthiness as an attorney in violation of Rule 8.4(b) of the Revised Rules of Professional Conduct.

15. By failing to take timely, effective action to assist Rogers with an appeal or other post-conviction relief, Johnson neglected a client matter in violation of Rule 1.3.

16. By failing to advise Cole that it was unlikely that he could do anything to effectively assist him regarding the 1993 robbery convictions, Johnson failed to explain the matter to the extent necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b).

17. By waiting from April 1999 until September 2001 in which to file a motion for appropriate relief for Cole, Johnson neglected a client's matter in violation of Rule 1.3.

18. By failing to respond in a timely fashion to the State Bar's letter of notice and substance of grievance regarding Ms. Cole's complaint, Johnson violated Rule 8.1(b).

In addition to the foregoing Findings of Fact, based upon the evidence introduced at the hearing, the Hearing Committee enters the following:

ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW
RELEVANT TO DISCIPLINE

1. Johnson's violations of the Revised Rules of Professional Conduct are aggravated by the following factors:

- a. Johnson engaged in a pattern of misconduct which occurred over a period of at least four years;
- b. Johnson violated multiple provisions of the Revised Rules of Professional Conduct.
- c. Johnson has been previously disciplined by the State Bar, including the issuance of a reprimand and an order of stayed suspension from the Disciplinary Hearing Commission.
- d. Johnson received a letter of warning less than 3 years before the date of the hearing herein.
- e. Johnson has substantial experience in the practice of law.
- f. Johnson engaged in deceptive practices during the pendency of the disciplinary proceedings herein. Specifically, he told the Grievance Committee that he had filed a divorce complaint on behalf of Ms. Barnack and he testified that the transfers of property to his children and then to WGJ Properties Inc. was not designed to interfere with the federal government's attempts to collect personal income taxes owed by Johnson.
- g. Some of Johnson's conduct was motivated by a selfish or dishonest motive.

2. Johnson's violations of the Revised Rules of Professional Conduct are mitigated by the following factors:

- a. Johnson expressed remorse and acknowledged responsibility for some of his violations of the Rules.
- b. Johnson presented substantial evidence of good character and reputation in his home community.

- c. Johnson has performed public service activities during his career as an attorney.
3. The aggravating factors outweigh the mitigating factors.
4. Johnson's misconduct has caused actual harm to a number of his clients and their families and has harmed the standing of the legal profession in the eyes of some members of the public.
5. Johnson's failure to respond in a timely fashion to the State Bar's letter of notice regarding Ms. Cole's grievance undermines the State Bar's ability to regulate attorneys and undermines the privilege of attorneys in this state to remain self-regulating.
6. An order calling for discipline short of a suspension of Johnson's law license with appropriate conditions precedent for reinstatement would not sufficiently protect the public for the following reasons:
 - a. Johnson engaged in multiple violations of the Revised Rules of Professional Conduct over a lengthy period of time, as opposed to an isolated act or mistake, and it therefore appears that his misconduct is the result of a problem or personality defect that is not readily changeable.
 - b. Johnson failed to present adequate assurances that he has addressed whatever problem or defect has caused his misconduct and there is consequently a substantial risk that his misconduct would be repeated if he were to be permitted to practice law.
 - c. The protection of the public requires that Johnson's law license be suspended until he demonstrates that he understands his ethical obligations to his clients, that he is capable of operating a law office in a manner consistent with the Rules of Professional Conduct, and that he is not suffering from any mental or physical condition that prevents him from practicing law competently.
 - d. Prior warnings and orders of discipline, including a period of probation, were insufficient to prevent Johnson from additional violations of the Rules of Professional Conduct and it appears that the only way to insulate the public from further harm is to prevent him from practicing law at least for a period of time.
 - e. Entry of an order imposing a lesser discipline would fail to acknowledge the seriousness of the offenses which Johnson committed, would be inconsistent with the orders of discipline entered by this body in similar cases, and would send the wrong message to

attorneys regarding the conduct expected of members of the Bar of this State.

Based upon the foregoing Findings of Fact, Conclusions of Law and Findings of Fact Relevant to Discipline, the Hearing Committee hereby enters the following:

ORDER OF DISCIPLINE

1. The law license of the Defendant, Walter T. Johnson, Jr., is hereby suspended for a period of three years, effective 30 days from the service of the written order upon him. All but one year of the suspension may be stayed for five years upon proof of compliance with the following conditions:

a. Within 60 days of seeking a stay of the active suspension of his license, Johnson received a mental health assessment from a licensed psychiatrist and executed a written waiver permitting the counsel of the North Carolina State Bar to receive copies of all evaluations, assessments and reports of the examining psychiatrist.

b. He has paid all outstanding employee withholding taxes owed to the state and federal governments.

c. Within 60 days of seeking a stay of the active suspension of his license, Johnson selected a member of the Guilford County Bar to supervise his law practice throughout the 5 year stayed period of the suspension. The supervising attorney shall be approved by the North Carolina State Bar.

d. He has successfully completed, at his own expense, a course in law office management review offered by Nancy Byerly Jones or some other provider approved by the North Carolina State Bar. He shall implement all recommendations of the consultant, provide all staff training recommended by the consultant and shall provide the State Bar with written verification that he has successfully completed the course.

e. He has paid the costs of this proceeding within 30 days of service of notice of the statement of costs by the Secretary of the State Bar.

f. He has complied with all laws of the United States and the several states that make up the United States during the one-year active suspension of his law license.

g. He has not violated any provisions of the Revised Rules of Professional Conduct during the active suspension of his law license.

2. If an order is entered staying any portion of the suspension of Johnson's law license, such stay will continue in effect only so long as Johnson complies with the additional following conditions:

a. Johnson shall comply with all laws of the United States and the several states that make up the United States.

b. Johnson shall comply with all provisions of the Revised Rules of Professional Conduct. Any violation of the Rules shall be sufficient to activate the remaining period of suspension of Johnson's law license.

c. Johnson shall respond to all letters of notice, subpoenas and other lawful demands for information from any district grievance committee or from the North Carolina State Bar by the deadline stated in the communication or, if known, by the deadline stated in the applicable law or rule.

d. Johnson shall meet with his supervising attorney at least once a month during the five-year stay period and shall report to the supervising attorney regarding the status of all current client matters. He shall develop a plan of action with projected time frames for handling all client matters and shall cooperate with the supervising attorney including providing all information which the supervising attorney deems necessary to ensure that Johnson's caseload remains of a manageable size, that he responds in a timely fashion to inquiries of the State Bar and from his clients. The entire cost of retaining the supervising attorney shall be borne by Johnson. Johnson shall provide written reports signed by the supervising attorney to the North Carolina State Bar certifying that Johnson is in compliance with the terms and conditions of this order. The reports must be received by the Office of Counsel on the first day of January, April, July and October throughout the stayed suspension of Johnson's law license.

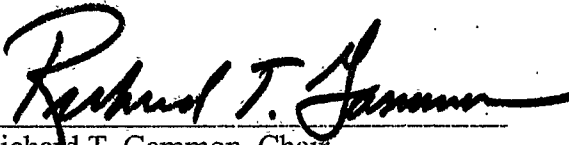
e. At least quarterly Johnson shall communicate in writing with all clients for whom he is handling legal matters. He shall maintain copies of the quarterly letters and shall provide copies to the North Carolina State Bar and his supervising attorney upon request.

f. Johnson shall handle all client matters promptly, shall respond to requests for information from his clients in a timely fashion, and shall ensure that his case load remains of a manageable size.

3. If Johnson does not seek a stay of the suspension of his law license or if the suspension is stayed and later activated, Johnson must comply with the conditions set out in paragraph 1 prior to seeking reinstatement of his law license at the conclusion of the three year suspension of his law license.

Signed by the Chair of the Hearing Committee with the consent of the other committee members.

This the 6th day of January, 2004.


Richard T. Gammon, Chair