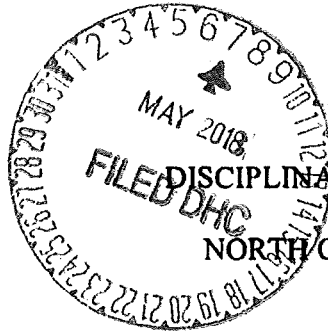


NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
12 DHC 22R

IN THE MATTER OF )

Petition for Reinstatement of  
TRACEY E. CLINE, Attorney )

ORDER DENYING  
MOTION TO REINSTATE LICENSE )

THIS MATTER came on to be heard on April 6, 2018 before a Hearing Panel composed of Fred M. Morelock, Chair, David W. Long and Randy A. Moreau on Petitioner's Motion to Reinstatement License filed on December 20, 2017. Margaret Cloutier represented the North Carolina State Bar. Petitioner Tracey E. Cline appeared *pro se*.

Based on the record and on the events at the hearing, the Hearing Panel makes the following

#### FINDINGS OF FACT

1. In an Order of Discipline filed June 22, 2015, a hearing panel of the Disciplinary Hearing Commission suspended Cline from the practice of law for five years effective thirty days from the date of service of the Order upon her. Cline was served with the Order on July 20, 2015 and the effective date of the Order is August 19, 2015.
2. The Order provides that Cline may apply for a stay of any remaining period of suspension after serving two years of the active suspension and upon compliance with conditions set forth in the Order.
3. Cline bears the burden of proving satisfaction of all conditions for a stay by clear, cogent and convincing evidence.
4. On December 20, 2017, Cline filed a Motion to Reinstatement License requesting that her license to practice law be reinstated.
5. At the outset of the hearing, the State Bar moved for dismissal, asserting that the Motion to Reinstatement License does not identify each condition for stay and state how Cline has met each condition nor does it have attached supporting documentation demonstrating compliance with 27 N.C.A.C. 1B §.0118(c) and §.0129(b) [formerly Rule .0125(b)] and paragraph 8 of the Order of Discipline. The Panel reserved ruling on the State Bar's motion until after the presentation of evidence.

6. Paragraph 8 of the June 2015 Order of Discipline provides that Cline must file a verified petition to apply for a stay of her suspension. Cline's December 20, 2017 motion was not verified and provided no supporting documentation.

7. Paragraph 5 of the June 2015 Order of Discipline provides that Cline must provide the State Bar with correct street and mailing addresses within fifteen days of the date of the Order. Paragraph 8(b) provides that Cline must keep the State Bar advised of her current home street address and notify the Bar of any change in address within ten days of such change. Although she notified the Clerk of her current address on September 6, 2017 after the Clerk's inquiry and presented at the hearing a copy of her driver's license to demonstrate her current address, Cline did not timely provide the State Bar with correct street and mailing addresses.

8. Paragraph 8(c) of the June 2015 Order of Discipline provides that Cline must accept all certified mail sent to her by the State Bar. The Clerk of the DHC attempted to send certified mail to Cline but on at least two occasions the certified mail was returned to the Clerk as unclaimed or undeliverable. While Cline testified that the mailing address used by the Clerk was correct at the time of the mailings, she had been staying periodically in another location and did not receive notice of the certified mailings. Cline made no efforts to notify the State Bar of where she could be reached during these times or to check for mail at her mailing address.

9. Paragraph 8(e) of the June 2015 Order of Discipline provides that Cline must properly wind down her law practice and comply with the requirements of Rule .0124 (now Rule .0128) of the Discipline and Disability Rules of the North Carolina State Bar to the extent applicable. Paragraph 4 of the Order specifies that Cline shall file an affidavit as required by Rule .0128. While Cline had no practice to wind down at the time of her suspension, she did not comply with the provisions of Paragraph 4 of the order and of Rule .0128 to file an affidavit showing that she fully complied with the provisions of the order and other jurisdictions to which she is admitted, and to set forth the residence or other address to which communication may thereafter be directed.

10. Paragraphs 6 and 8(f) of the June 2015 Order of Discipline provide that Cline shall pay the costs and administrative fees of the prior proceeding within sixty days of the statement of costs being served on her. Cline failed to sign for the certified mail the Clerk initially sent to her in March 2016, but received the statement of costs in an email sent by the Clerk in May 2016. Cline did not pay the costs until the day of this hearing.

11. Rule .0129(b)(3)(I) of the Discipline and Disability Rules provides that Cline must complete 15 hours of CLE, of which three hours must be for professional responsibility, in the year before being reinstated. Cline presented evidence to show that she took seven hours of CLE in October 2017 and six hours of on-line CLE in February 2018. Only two of those hours appear to satisfy the professional responsibility requirement. The CLE hours as presented by Cline total 13 -- two hours short of the 15-hour requirement.

Based on the foregoing Findings of Fact, the Hearing Panel makes the following

### CONCLUSIONS OF LAW

1. The Hearing Panel has jurisdiction over Petitioner, Tracey E. Cline, and over the subject matter.

2. Cline has not presented clear, cogent and convincing evidence that she has timely complied with the requirements of the June 2015 Order of Discipline and 27 N.C.A.C. 1B §.0129(b) [formerly Rule .0125(b)].

3. Cline is not entitled to a stay of the suspension at this time.

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

### ORDER

1. The State Bar's motion to dismiss is denied.

2. Cline's Motion to Reinstate License is hereby DENIED.

3. Cline is taxed with costs and administrative fees for this hearing. Cline shall pay the costs and administrative fees of this proceeding within sixty days of service of the statement of costs upon her.

7<sup>th</sup> Signed by the Chair with the knowledge and consent of the Panel members, this day of May, 2018.



Fred M. Morelock, Chair  
Disciplinary Hearing Panel