

2611

WAKE COUNTY BEFORE THE DISCIPLINARY HEARING COMMISSION
NORTH CAROLINA OF THE NORTH CAROLINA STATE BAR
02 DHC 7

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

ANNE M. LAMM, ATTORNEY
Defendant

CONSENT ORDER
MODIFYING ORDER
OF DISCIPLINE

THIS MATTER, coming before a hearing committee composed of Elizabeth Bunting, Chair, W. Steven Allen, Sr., and H. Dale Almond, on the Plaintiff's motion to amend the Order of Discipline entered herein and it appearing that both parties consent to the motion and to the terms of the proposed order herein, the Hearing Committee therefore enters the following:

FINDINGS OF FACT

1. The Defendant, Anne M. Lamm was admitted to the North Carolina State Bar in 1969 and is, and was at all times relevant hereto, 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.

2. On April 22, 1999, the Disciplinary Hearing Commission entered a Consent Order (the "April Order") whereby Defendant was suspended from the practice of law for two years with the suspension stayed for two years on a number of conditions. Conditions enumerated in the Order required, inter alia, that Defendant meet regularly with a supervising attorney and respond to all letters of notice, subpoenas, and reasonable requests for information from any district grievance committee and the North Carolina State Bar.

3. Defendant signed the April Order on April 22, 1999 and it was served upon her attorney of record on April 29, 1999.

4. Thereafter, the Defendant violated the terms and conditions of the April Order by failing to respond to a request for information from the District Bar Grievance Committee within the time frame stated in the communication and by failing to meet with the supervising attorney at least monthly.

5. On September 15, 2000 the Disciplinary Hearing Commission entered a second Consent Order ("the September Order") suspending Defendant from the practice of law for two years and incorporating the remaining terms and conditions of the April Order.

6. The September Order was signed by the Defendant and served upon her on September 15, 2000.

7. On or about November 1, 2000 Jane Pratt of the North Carolina State Bar Client Assistance Program contacted Defendant via certified mail and asked Defendant to return the client file to her former client, Susanne S. Ford.

8. Defendant received Pratt's letter, but did not respond to Ford or Pratt.

9. In December 2000, State Bar Counsel also wrote to Defendant asking her to return the file to Ford. The Sheriff served counsel's letter upon Defendant on February 27, 2002.

10. At no time did Defendant respond to the lawful demands from Ford, the State Bar Client Assistance Program, or the Office of Counsel, nor did she return the client file to Ford.

11. On or about December 13, 2000, Defendant was charged with driving while subject to an impairing substance (DWI).

12. On January 5, 2001, the Office of Counsel sent a Letter of Notice to Defendant via certified mail regarding the DWI. Defendant received the Letter of Notice on or about January 20, 2001.

13. Defendant failed to respond to the Letter of Notice.

14. On or about February 12, 2002, the Office of Counsel mailed a second letter reminding Defendant of her duty to respond to the State Bar. Defendant received the letter of reminder on or about February 15, 2002.

15. Defendant failed to respond to the follow-up to the Letter of Notice.

Based on the foregoing findings of fact and the consent of the parties, the hearing committee enters the following:

CONCLUSIONS OF LAW

1. The hearing committee has jurisdiction over the subject matter of this motion and over the person of the Defendant.

2. The Defendant violated the terms of the September Order by failing to respond to a request from Defendant's client, Susanne S. Ford, for the return of Ford's file to Ford.

3. The Defendant violated the terms of the September Order by failing to respond to requests from the Client Assistance Program and the Office of Counsel of the North Carolina State Bar asking Defendant to return Ford's file to Ford.

4. The Defendant violated the terms of the September Order by failing to respond to the Letter of Notice from the Office of Counsel regarding the charge of Driving While Impaired (DWI).

ORDER OF DISCIPLINE

WHEREFORE, based on the foregoing findings and the consent of the parties, the hearing committee hereby ORDERS that the September 15, 2000 Consent Order of discipline is AMENDED to provide as follows:

1. The Defendant, Anne M. Lamm, remains suspended from the practice of law for a period of two years beginning September 15, 2000.

2. Before filing a petition for reinstatement at the conclusion of the suspension, Defendant Anne M. Lamm must meet the following conditions:

- a. The Defendant shall comply with the terms and conditions of 27 N.C. Admin. Code Subchapter B § .0124 concerning the wind down of Defendant's practice;
- b. The Defendant shall submit the name of a treating psychiatrist who is certified as a member of the American Society of Addiction Medicine, ("the Doctor") to the North Carolina State Bar for approval. Upon approval, Defendant shall remain in this Doctor's care for 12 consecutive months immediately prior to filing a petition for reinstatement. Defendant shall have the Doctor submit a signed report to the Counsel of the North Carolina State Bar indicating that Defendant has complied with the terms of treatment as prescribed by the Doctor, and, that in the opinion of the Doctor, the Defendant is not suffering from any physiological or psychological condition that would impair Defendant's ability to practice law. The report shall be filed no less than three months prior to the date Defendant petitions for reinstatement;
- c. The Defendant shall totally abstain from the consumption of any narcotic or mood altering substances of any type, including without limitation, alcoholic beverages, illicit or illegal drugs, or legally

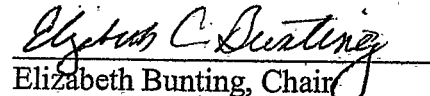
prescribed medications for legitimate ailments at variance from the prescription, for the 12 consecutive months immediately prior to seeking reinstatement. The Defendant may use prescription medications during the suspension only in strict conformance with the prescription of a physician and under the supervision of the Doctor;

- d. The Defendant's abstinence from alcohol and drugs shall be evidenced by enrollment, at Defendant's expense, in a drug and alcohol screening program (the "Program") utilizing urine screening and saliva and/or Breathalyzer testing. The Defendant shall use a screening agency such as the National Confederation of Professional Services (757-873-3330) or a similar program approved by the North Carolina State Bar that meets the monitoring standards required by this Order. The Defendant shall remain enrolled in the Program for the 12 consecutive months prior to seeking reinstatement. The Program must be one that requires Defendant to make a call each weekday to determine if testing is necessary. Frequency of the testing for alcohol and drug use shall be determined solely by the North Carolina State Bar in consultation with employees of the Program and shall not be made known to Defendant. The number of random tests required by the Defendant shall not exceed thirty-six (36) for the 12 months of Defendant's enrollment. Defendant's failure to make a daily call to the Program shall be counted as a positive screening result for alcohol and/or drugs unless the failure is justified in writing and approved by the North Carolina State Bar Office of Counsel. Failure to report for the required testing will be counted as a positive screening result for alcohol and/or drugs. Any positive test for alcohol or failure to call or report to the Program for a screen as required will be considered a violation of Paragraph C above;
- e. The Defendant shall advise her Doctor and any other treating physician of the contents of this Order and her history of addictive disease. Prior to using any mood altering prescription medication, Defendant shall have her Doctor, or any other treating physician, contact the office of State Bar Counsel in writing and describe the amount of such medication, the duration of the course of treatment, and provide to Counsel's office the reason such mood altering medication is needed and why the lack of any non-mood altering medication is appropriate therapy. After such report is provided to the Office of Counsel, Defendant may use such medication as prescribed notwithstanding Paragraph C above. However, use of the medication other than as prescribed is not permitted under this Order and shall constitute a violation of Paragraph C above;
- f. During the period of suspension, the Defendant shall not violate any state or federal law, and shall not violate the North Carolina Revised

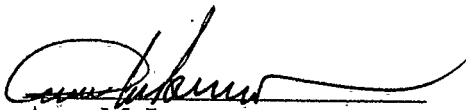
Rules of Professional Conduct or the Rules and Regulations of the North Carolina State Bar;

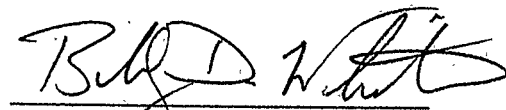
- g. The Defendant shall execute a release that permits the Office of Counsel of the North Carolina State Bar to obtain Defendant's medical and counseling records from all medical providers, psychiatrists, and counselors relating to Defendant's treatment and prognosis;
- h. The Defendant shall make all reasonable efforts to return the client file of Susanne M. Ford to Ms. Ford;
- i. The Defendant shall pay all the costs of this action and all prior disciplinary actions brought against her by the State Bar;
- j. Terms and conditions of this order replace the terms and conditions of the Consent Order dated April 22, 1999 and the Consent Order dated September 15, 2000.

Signed by the hearing committee chair with the consent of the other hearing committee members. *This the 5th day of July, 2002*


Elizabeth Bunting, Chair
Disciplinary Hearing Committee

Seen and agreed to:


Anne M. Lamm
Defendant


Bobby D. White
Plaintiff's Attorney