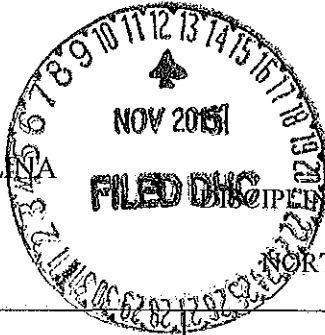


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
15 DHC 6 *A*

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

H. RUSSELL VICK & JIMMY A.
PETTUS, Attorneys,

Defendants

CONSENT ORDER OF
DISCIPLINE

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Renny W. Deese, Chair, and members Walter E. Brock and Michael S. Edwards, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h) of the North Carolina State Bar Discipline and Disability Rules. Plaintiff was represented by Barry S. McNeill, Deputy Counsel. Defendant, H. Russell Vick ("Defendant Vick"), was represented by Dudley A. Witt and David Freedman of Crumpler, Freedman, Parker & Witt, Winston-Salem, North Carolina. Both Plaintiff and Defendant Vick stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant Vick has freely and voluntarily stipulated to the foregoing findings of fact and consents to the conclusions of law and entry of the order of discipline. Defendant Vick freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline.

Based upon the pleadings in this matter, the parties' stipulations of fact, and with the consent of the parties, the Hearing Panel hereby enters the following:

Findings of Fact

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, H. Russell Vick ("Vick" or "Defendant Vick"), was admitted to the State Bar on March 28, 1981, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the State Bar and the Rules of Professional Conduct.

3. Defendant, Jimmy A. Pettus ("Pettus" or "Defendant Pettus"), was admitted to the State Bar on August 23, 1997, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

4. During all or part of the relevant periods referred to herein, Vick and Pettus were engaged in the practice of law in the State of North Carolina and practiced in the law firm of H. Russell Vick & Associates, P.L.L.C. ("Vick & Associates") in Greensboro, Guilford County, North Carolina.

5. Vick founded Vick & Associates in 1999 and is the registered agent for the firm.

6. Vick & Associates represents claimants for Social Security Disability Insurance Benefits and Supplemental Security Income.

7. Vick and Pettus are partners in Vick & Associates, and constitute its sole management.

8. Pettus is the managing partner in Vick & Associates.

9. Both Vick and Pettus had signature authority on the operating and trust accounts maintained by Vick & Associates during the years 2010, 2011 and 2012 ("the relevant time period").

10. During the relevant time period, Vick and Pettus employed persons at Vick & Associates, including other attorneys and clerical personnel.

11. Jeanne H. Hoag ("Ms. Hoag") worked full time for Vick and Vick & Associates from 1992 to 2007 or 2008, performing bookkeeping for the firm, including reconciling banking accounts, payroll, and accounts payable, and paying federal and state withholding taxes.

12. Vick & Associates offered a Simple IRA retirement plan managed by Ameriprise Financial ("Ameriprise") whereby participating employees chose an amount to be withheld from each paycheck for contribution to that employee's Ameriprise Simple IRA account.

13. Under the Ameriprise Simple IRA retirement plan, Vick & Associates was supposed to withhold the designated amount from each participating employee's biweekly paycheck, deposit that amount into the employee's Ameriprise Simple IRA account, and deposit the firm's matching amount up to 3% of the employee's salary.

14. United States Department of Labor ("DOL") and Internal Revenue Service ("IRS") rules require that participating employees' Simple IRA contributions to Ameriprise become plan assets as of (1) the earliest date on which such contributions may reasonably be segregated from Vick & Associates' general assets, but (2) in no event later than the 30th calendar day following the month in which the amount would otherwise have been payable to the participant.

15. Vick and Pettus had a joint fiduciary duty to their firm's participating employees to segregate and timely deposit the Simple IRA withholdings into the participating employees' Simple IRA accounts rather than commingle the withholdings with other funds used for the benefit of Vick & Associates.

16. In 2007 or 2008, Ms. Hoag began working for Vick & Associates only one day a week, and she continued doing so into the Fall of 2010 when she was diagnosed with a medical condition.

17. On October 21, 2010, Ms. Hoag made a monthly disbursement to Ameriprise of the Simple IRA employees' contributions for the two bimonthly pay periods in September 2010, along with a quarterly disbursement to Ameriprise of the firm's matching contributions for July, August, and September 2010.

18. Ms. Hoag did not work at Vick & Associates after November 5, 2010.

19. At the time of Ms. Hoag's departure from her part-time work at Vick & Associates, the firm was current in paying employees' withholding taxes to the IRS and the North Carolina Department of Revenue, its unemployment taxes to the Employment Security Commission of North Carolina ("ESC"), and its monthly disbursements to Ameriprise of the Simple IRA employees' contributions along with the firm's matching contributions.

20. Ms. Hoag's departure from her work at Vick & Associates was abrupt and unexpected by Vick and Pettus.

21. After Ms. Hoag's departure in November 2010, Pettus assumed performing Ms. Hoag's payroll and accounts payable duties.

22. During the relevant time period but after Ms. Hoag's departure, Pettus signed the Vick & Associates checks or authorized clerical employees at the firm to affix a facsimile of his signature to paychecks for the firm's employees.

23. After Ms. Hoag's departure, Pettus was responsible for paying the routine and recurring bills for Vick & Associates, including the employees' payroll.

24. As partners in Vick & Associates, Vick and Pettus conferred on large or unusual expenses and attempted to reach a mutual agreement on financial affairs.

25. Defendant Vick had no day-to-day involvement in Vick & Associates' accounts payable or payroll.

26. United States Code sections 26 U.S.C. §§ 3102(a), 3402(a) provide that Federal income taxes, as well as Social Security taxes and Medicare taxes ("withholdings") must be withheld from Vick & Associates' employees' paychecks.

27. The federal withholdings referenced above, plus an employer matching amount for Social Security and Medicare taxes, by law must be deposited quarterly with the IRS.

28. Willful failure to collect or pay to the IRS such withholdings as referenced above is a felony under 26 U.S.C. § 7202.

29. The officers or employees of a business entity responsible for the collection and payment of such withholdings as referenced above who willfully fail to do so may be personally liable to pay a penalty equal to the amount of the delinquent taxes pursuant to 26 U.S.C. § 6672.

30. Pursuant to 26 U.S.C. § 7501(a), such federal withholdings as referenced above are deemed to be a special fund in trust for the United States.

31. IRS form 941, which is a summary of the salaries paid to the employees and the amounts withheld from their paychecks, the monthly deposits to the IRS and the amount due if sufficient deposits were not made, is due 30 days after the last day of the respective quarter.

32. As the managing partner for Vick & Associates, Pettus was designated to sign the IRS form 941s for Vick & Associates, but Vick and Pettus were jointly responsible for the collection, accounting, and payment of the withholdings to the IRS on behalf of Vick & Associates.

33. For the last quarter of 2010 through the last quarter of 2012, Pettus, on behalf of Vick & Associates, made withholdings from employees' paychecks and filed IRS forms 941 with the IRS each quarter.

34. For the last quarter of 2010 through the last quarter of 2012, Pettus timely filed IRS form 941 returns on behalf of Vick & Associates with the exceptions of the quarters ending in June 2011 and September 2012.

35. For the last quarter of 2010 through the last quarter of 2012, Pettus, on behalf of Vick & Associates, failed to make to the IRS the requisite deposits of the employees' withholdings and Vick & Associates' matching amounts for Social Security and Medicare taxes in any of the quarters, and the resulting amounts due with each of the respective IRS form 941 returns were not timely paid or remain unpaid.

36. For the quarters ending in December 2011 through June 2012, Pettus made no deposits or payments of withholdings of any kind to the IRS on behalf of Vick & Associates.

37. The balance of withholdings due to the IRS by Vick & Associates, including interest and penalties, exceeds \$350,000.

38. Vick & Associates received numerous letters and notices from the IRS in reference to its employment tax liability, including a notice of intent to levy.

39. The IRS letters and notices accumulated in the office at Vick & Associates where Ms. Hoag formerly worked.

40. The IRS letters and notices were available to both Vick and Pettus for inspection.

41. Pettus did not inform Vick in 2011 about the accumulating deficits in IRS withholdings and penalties.

42. On June 17, 2011, Vick was admitted as an inpatient to Moses Cone Hospital ("Moses Cone") due to incapacitating neurological symptoms which were diagnosed as Guillian Barre Syndrome – Miller Fisher Variant.

43. Vick remained hospitalized at Moses Cone until discharged on July 13, 2011.

44. After his discharge from Moses Cone, Vick was admitted as an inpatient to the Guilford Health Care Center for rehabilitation, where he remained until discharged on August 16, 2011.

45. Vick continued his recuperation at home following his discharge from Guilford Health Care Center, and did not return to Vick & Associates until early January 2012.

46. Pettus did not inform Vick about the accumulating deficits in IRS withholdings and penalties until after Vick returned to work at Vick & Associates in January 2012.

47. Subsequent to January 2012, Vick and Pettus, on behalf of Vick & Associates, entered into an agreement with the IRS to make payments on its outstanding employment tax liability balance.

48. The North Carolina Department of Revenue ("state Department of Revenue") has requirements similar to the IRS in regards to withholding state income taxes from employees' wages and forwarding those withholdings to the state Department of Revenue along with quarterly employment tax returns.

49. Willful failure to pay such state withholding taxes to the state Department of Revenue is a misdemeanor pursuant to N.C. Gen. Stat. § 105-236(a)(8)-(9).

50. Vick and Pettus were jointly responsible for the collection, accounting, and payment of the state withholdings to the state Department of Revenue on behalf of Vick & Associates.

51. While withholding state income taxes from Vick & Associates' employees, Pettus failed to make withholding payments on behalf of Vick & Associates to the state Department of Revenue during the years 2010, 2011 and 2012.

52. The state Department of Revenue issued to Vick & Associates a Notice of Collection in reference to employment withholding taxes for the quarter ending December 2010.

53. The state Department of Revenue notices were received by Vick & Associates and accumulated in the office at Vick & Associates.

54. The state Department of Revenue notices were available to both Vick and Pettus for inspection.

55. On March 26, 2012, the state Department of Revenue garnished \$18,544.76 from the operating account of Vick & Associates to satisfy Vick & Associates' state withholding tax obligation for the quarter ending December 2010.

56. Pettus did not inform Vick about the deficits in state withholding taxes and penalties until after Vick returned to work in January 2012.

57. On April 29, 2013, the state Department of Revenue and Vick and Pettus, on behalf of Vick & Associates, entered into an agreement that if Vick and Pettus participated in a Small Business Counseling Program, the state Department of Revenue would waive \$8,807.70 of Vick & Associates' state employment tax liability for the quarters ending March 30, 2011 through September 29, 2012.

58. After Vick and Pettus completed the counseling program referenced above, Vick & Associates' total state employment tax liability was \$103,485.51, including tax, interest and penalties.

59. The state Department of Revenue agreed with Vick and Pettus to accept 24 monthly payments from Vick & Associates of \$4,311.90 to settle the amount due for the quarters ending March 30, 2011 through September 29, 2012.

60. The state Department of Revenue began withdrawing the agreed-to amount of \$4,311.90 per month from the Vick & Associates' operating account on September 20, 2013.

61. The rules of the North Carolina Department of Commerce's Division of Employment Security require employers to file quarterly reports and pay unemployment taxes on the wages paid to employees.

62. Vick and Pettus were jointly responsible for the accounting and payment of unemployment taxes to the state ESC on behalf of Vick & Associates.

63. During the relevant time period, Vick and Pettus did not file necessary reports or timely pay the required unemployment taxes (\$1,127.97 in 2011; \$1,713.46 in 2012) to the ESC on behalf of Vick & Associates.

64. During the relevant time period after Ms. Hoag's departure, Pettus supervised the funds withheld from Vick & Associates' employees' paychecks and funds owed to the ESC until those funds were delivered to the IRS and the state Department of Revenue, or to the ESC.

65. In January 2012, Vick became aware that Vick & Associates had failed to pay or deposit the funds withheld from employees' paychecks to the IRS and the state Department of Revenue, or the unemployment taxes owed to the ESC.

66. Vick and Pettus were jointly responsible as fiduciaries for the collection, accounting, and payment of the employees' Simple IRA contributions and matching funds to Ameriprise.

67. During 2010 and 2011, at least three of Vick & Associates' attorneys, along with three staff employees were participating in the firm's Simple IRA retirement plan.

68. In approximately November 2011, one or more of Vick & Associates' employees who were participating in the Simple IRA retirement plan discovered for the first time that Pettus had deducted their retirement contributions from their paychecks, but that Vick & Associates had not timely deposited these funds or the firm's matching funds into their Simple IRA accounts at Ameriprise.

69. During the last quarter of 2010 and the entirety of 2011, Vick & Associates withheld Simple IRA contributions from the paychecks of six employees totaling over \$15,000.

70. During the last quarter of 2010 and the entirety of 2011, none of the participating employees' Simple IRA contributions referenced above or the firm's matching 3% were deposited into their Ameriprise Simple IRA accounts.

71. During the last quarter of 2010 and the entirety of 2011, the participating employees' Simple IRA contributions were commingled with other funds used for the benefit of Vick & Associates, including the salaries of Vick and Pettus and non-salary distributions made to Vick and Pettus.

72. When confronted about the non-deposits of the employees' retirement contributions or the firm's matching 3%, Pettus admitted that since November 2010 he had been withholding retirement contributions from each participating employee's paycheck, but that he had failed to deposit those contributions and the firm's matching funds into the participating employees' Simple IRA accounts.

73. During 2011, Vick & Associates received repeated notices from Ameriprise that participating employees' retirement contributions were not being deposited into their Simple IRA accounts.

74. The Ameriprise notices were available to both Vick, at least prior to his incapacitation with the neurological illness in June 2011, and then upon his return to work at Vick & Associates in January 2012, and Pettus for inspection.

75. In January 2012, following his return to the firm, Vick became aware that Vick & Associates had failed to pay or deposit the participating employees' retirement contributions into their Simple IRA accounts for the last quarter of 2010 and the entirety of 2011.

76. In January 2012, Pettus announced to Vick & Associates' employees that he and Vick had decided that the firm would no longer offer the Simple IRA retirement

plan and that retirement contributions would no longer be withheld from participating employees' paychecks.

77. On January 20, 2012, Pettus announced his intention to restore the employees' missing Simple IRA contributions.

78. In August 2012, Vick & Associates' four associate attorneys left the firm.

79. In September 2012, Pettus deposited sums in the participating employees' Ameriprise Simple IRA accounts to cover the amounts owed to those employees.

80. Despite failing to timely deposit withheld retirement contributions into their employees' Simple IRA accounts as referenced above, and also despite failing to timely deposit federal and state employee withholding taxes as referenced above, Vick and Pettus paid themselves disproportionately large salaries and distributions during the same time period.

81. During the last two week pay period ending on September 23, 2010, Vick and Pettus each received a gross salary of \$7,692.31; for the seven remaining two week periods in 2010, Vick and Pettus each received a gross salary of \$11,538.46 per pay period (an increase in pay, every two weeks, of \$3,846.15 each, equating to an increase in the last three months of 2010 of \$26,923.05 each).

82. During 2011, Vick was paid a gross salary of \$287,076.92; in addition, Vick received additional non-salary distributions from Vick and Associates of \$76,388.35 in 2011.

83. During 2011, Pettus was paid a gross salary of \$289,846.04; in addition Pettus received additional non-salary distributions from Vick and Associates of \$79,568.35 in 2011.

84. Salaries for Vick and Pettus during 2011 were in excess of salaries and income paid to other employees who participated in the Simple IRA plan.

85. Pettus used the commingled withheld federal and state taxes, along with the participating employees' withheld Simple IRA funds to continue his and Vick's salaries and distributions at the same or higher levels during the last quarter of 2010 and during all four quarters of 2011.

86. On November 10, 2015, Pettus surrendered his North Carolina law license and the Chairperson of the DHC entered a Consent Order disbaring Pettus from the practice of law in North Carolina.

87. As a partner with Pettus in Vick & Associates, Vick possessed comparable managerial authority in the financial affairs of the firm even though Pettus was the managing partner.

88. During the relevant time period, and especially from November 2010 to June 2011 when he became incapacitated, Vick did not review available correspondence or converse with Pettus to determine whether Vick & Associates was properly accounting

for, segregating, and depositing or paying the withheld federal and state taxes and the participating employees' Simple IRA contributions.

89. During the relevant time period, Vick failed to make reasonable efforts to ensure that Vick & Associates had in effect procedures assuring that Pettus would properly account for, segregate and deposit or pay the withheld federal and state taxes and the participating employees' Simple IRA contributions.

90. During the relevant time period, and especially in 2011 and 2012, until he became incapacitated, Vick did not review available correspondence or converse with Pettus to determine whether Vick & Associates was properly accounting for and paying required ESC insurance premiums.

91. During the relevant time period, Vick failed to make reasonable efforts to ensure that Vick & Associates had in effect procedures assuring that Pettus would properly account for and pay required ESC insurance premiums.

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the Hearing Panel enters the following:

Conclusions of Law

1. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant Vick and the subject matter of this proceeding.

2. Defendant Vick's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- a) By failing to review available correspondence or converse with Pettus to determine whether Vick & Associates was properly accounting for, segregating, and depositing or paying the withheld federal and state taxes and the participating employees' Simple IRA contributions, as well as accounting for and paying ESC insurance premiums, Vick failed to make reasonable efforts to ensure that Vick & Associates had in effect procedures assuring Pettus conformed to the Rules of Professional Conduct in violation of Rule 5.1(a).

Upon the consent of the parties, the Hearing Panel also enters the following:

Findings of Fact Regarding Discipline

1. Defendant Vick served nine years in the Army and, after law school, remained in the Army Reserve before retiring in 1999 at the rank of Lieutenant Colonel.

2. Defendant Vick has no prior disciplinary record concerning his license to practice law in North Carolina.

3. Defendant Vick has no prior discipline from the Social Security Administration.

4. Defendant Vick fully cooperated with the State Bar's investigation and has been responsive to the State Bar's inquiries.

5. Defendant Vick has expressed genuine remorse for his lack of awareness of Pettus's actions, and his failure to intervene at an earlier point in time.

6. Defendant Vick did not engage in the conduct described in the Findings of Fact above with any dishonest or selfish motive.

7. Defendant Vick has the reputation, among his peers, colleagues and associates of being honest and fair, though sometimes too trusting of others.

8. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the Findings of Fact and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes the following:

Conclusions With Respect To Discipline

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors warrant suspension of Defendant Vick's license:

- (E) Defendant Vick's actions potentially had a negative impact on the public's perception of the legal profession; and,
- (H) Defendant Vick's actions had financial repercussions on third parties, namely his employees.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and concludes that none of the factors for disbarment are implicated.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B §.0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are applicable in this matter:

- (A) Defendant Vick's lack of prior disciplinary offenses;
- (C) Absence of a dishonest or selfish motive;
- (G) Defendant Vick engaged in multiple offenses;

- (H) Defendant Vick's incapacitation with a neurological illness during a significant portion of the relevant time period contributed to his lack of awareness of Defendant Pettus's actions;
- (K) Defendant Vick's full and free disclosure to the hearing panel and cooperative attitude toward the proceedings;
- (P) Defendant Vick's remorse and efforts to repay all sums unpaid to State and Federal authorities;
- (Q) Defendant Vick's good character and reputation; and
- (S) Defendant Vick's degree of experience in the practice of law

4. The Hearing Panel has considered issuing an admonition, reprimand or censure but concludes that such discipline would not be sufficient discipline because of the gravity of the misconduct at issue and the harm or potential harm Defendant's misconduct caused to the public, the administration of justice, and the legal profession.

5. The Hearing Panel also has considered the disbarment factors under 27 N.C.A.C. 1B §.0114(w)(2), but concludes that none of these factors are implicated and that disbarment is not necessary to protect the public in this case.

6. For these reasons, this Hearing Panel finds that an order imposing discipline short of suspension of Defendant's law license would not adequately protect the public, the legal profession, or the administration of justice for the following reasons:

- a) The factors under 27 N.C.A.C. 1B §.0114(w)(1) and (w)(3) that are established by the evidence are of a nature that support imposition of suspension as the appropriate discipline; and,
- b) Entry of less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to prosecutors, attorneys, and the public regarding the conduct expected of members of the Bar in this State.

Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, and based upon the consent of the parties, the Hearing Panel enters the following:

Order of Discipline

1. Defendant, H. Russell Vick, is hereby suspended from the practice of law for one year, effective 30 days from service of this order upon Defendant.

2. The one-year suspension is stayed for a period of one year as long as Defendant Vick complies, and continues to comply during the period of the stay, with the following conditions:

- a) Defendant Vick shall timely submit his annual Continuing Legal Education (“CLE”) report form to the CLE Department of the North Carolina State Bar each year of the stay and contemporaneously send a copy of the CLE report form to the Office of Counsel of the State Bar to document compliance with the above conditions of the stay. “Timely” means by the date specified by the CLE department as the date by which members must submit their annual report forms to avoid assessment of a \$75.00 late filing penalty. Defendant must ensure the Office of Counsel receives a copy of his annual CLE report form no later than 15 days after it is due to the CLE department of the State Bar each year;
- b) In addition to his annual requirement of 12 hours of CLE and within the next 12 months following the effective date of his suspension, Defendant Vick shall complete an additional three (3) hours of CLE, approved in advance by the Office of Counsel, related to law office management;
- c) For the next 12 months following the effective date of his suspension, Defendant Vick shall maintain an installment agreement with the IRS to continue paying the outstanding balance of the taxes and penalties owed by Vick & Associates. If the existing installment agreement with the IRS is modified or satisfied, Defendant Vick shall notify the Office of Counsel within ten (10) days of such change in status, and shall thereafter notify the Office of Counsel of any further changes in the status of the firm’s installment agreement with the IRS within ten (10) days;
- d) For the next 12 months following the effective date of his suspension, Defendant Vick shall ensure that his firm, Vick & Associates, properly reports and timely pays any applicable federal and state withholding taxes and unemployment insurance for its employees, and if the firm renews its offering of a Simple IRA retirement plan for participating employees, then Defendant Vick shall ensure that any participating employees’ contributions and any firm matching funds are timely paid by the firm into the employees’ accounts. Thirty days prior to end of his suspension, Defendant Vick shall submit a report to the Office of Counsel certifying his compliance with this requirement as of the date of the report;
- e) Defendant Vick shall pay all Membership dues and Client Security Fund assessments and comply with all CLE requirements on a timely basis;
- f) Defendant Vick shall keep his address of record with the North Carolina State Bar current, accept all certified mail from the North Carolina State Bar, and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication;
- g) Defendant Vick shall not violate any of the Rules of Professional Conduct in effect during the period of the stay;

- h) Defendant Vick shall not violate any laws of the State of North Carolina or of the United States during the period of the stay; and
- i) Defendant Vick shall pay all costs and administrative fees of this proceeding as assessed by the Secretary within thirty (30) days after service of the notice of costs on him.

3. If the stay of the suspension is lifted and the suspension is activated for any reason, the following conditions are placed upon Defendant Vick's reinstatement to active status. With any petition Defendant Vick files for reinstatement to active practice, Defendant must demonstrate by clear, cogent, and convincing evidence that he complied with each of the following conditions:

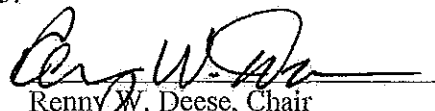
- a) Submitted his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days from the effective date of the order activating his suspension;
- b) Complied with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the N.C. State Bar Discipline & Disability Rules on a timely basis;
- c) Not have violated any of the Rules of Professional Conduct;
- d) Not have violated any laws of the State of North Carolina or of the United States; and
- e) Paid all costs of this proceeding as assessed by the Secretary within thirty (30) days of service of the notice of costs upon him.

4. Defendant is taxed with the administrative fees and costs of this action as assessed by the Secretary, which shall be paid within thirty (30) days of service of the notice of costs upon Defendant.

5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

Signed by the undersigned Hearing Panel Chair with the consent of the other Hearing Panel members.

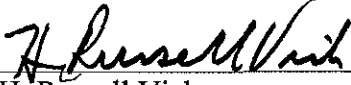
This the 12th day of November 2015.


Renny W. Deese, Chair
Disciplinary Hearing Panel

Agreed and consented to by:



Barry S. McNeill
Attorney for Plaintiff



H. Russell Vick
Defendant



Dudley A. Witt
Attorney for Defendant Vick



David Freedman
Attorney for Defendant Vick