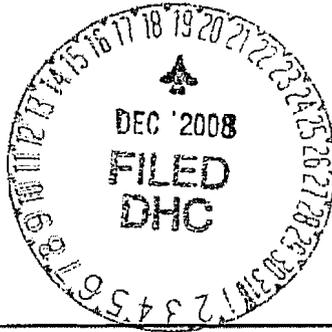


NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
08 DHC 14

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
SCOTT B. SPRANSY, Attorney,)
Defendant)

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

This matter came before a hearing committee of the Disciplinary Hearing Commission composed of Theodore C. Edwards, II, Chair, Donna Rascoe, and Donald G. Willhoit; with A. Root Edmonson representing the North Carolina State Bar and with the defendant appearing *pro se*. Based upon this consent order, the hearing committee finds that the following facts have been established by clear, cogent and convincing evidence:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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. Defendant, Scott B. Spransy (hereinafter "Spransy"), was admitted to the North Carolina State Bar on September 10, 1993, 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 Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During the times relevant herein, Spransy actively engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.
4. In August 2005, Spransy was retained by Adam Alexander (hereinafter "Alexander") to represent him on a number of traffic and other charges.
5. Alexander paid Spransy \$1,000 for his services.

6. Alexander's mother, Patsy Roberts (hereinafter "Roberts"), called Spransy's office to determine whether Alexander needed to appear in court on his October 5, 2005 court date and was advised that Alexander needed instead to appear on October 13, 2005.

7. On October 13, 2005, Spransy did not appear in court for Alexander.

8. On October 13, 2005, Alexander appeared for court and learned that a failure to appear warrant had been issued against him for not appearing in court on October 5, 2005, and he was taken into custody.

9. Thereafter, after not being able to get Spransy to return her numerous calls, on October 15, 2005 Roberts paid a bondsman \$740 to secure Alexander's release.

10. In August 2006, Alexander filed a grievance with the Mecklenburg County Bar.

11. On August 25, 2006, Spransy was notified of Alexander's grievance by Mark A. Michael, chairman of the 26th Judicial District Grievance Committee, and was directed to file a written response within 15 days of receipt of Michael's letter.

12. Thereafter, the attorney assigned to investigate Alexander's grievance for the 26th Judicial District, Heather L. Taraska (hereinafter "Taraska"), contacted Spransy via e-mail and voice mail seeking to get a response to the grievance.

13. Spransy failed to respond to Michael or Taraska and did not ever provide any response to the Alexander grievance.

14. Spransy was retained by Philipp Stahala (hereinafter "Stahala") to represent him on a boating while intoxicated charge.

15. Stahala was advised that he would not have to appear on his February 24, 2006 court date, but needed to send Spransy \$110 for the court costs prior to that date.

16. On February 3, 2006, Stahala sent Spransy his check number 570 for \$110 which Spransy received and negotiated.

17. Spransy failed to pay Stahala's court costs, resulting in Stahala being arrested and held for nine hours until the court costs were paid.

18. On January 5, 2007, Stahala filed a grievance with the State Bar.

19. On April 20, 2007, Spransy was served with a Letter of Notice requiring a response to the Stahala grievance within 15 days.

20. Although Spransy knew about the grievance and signed for it, he did not provide a timely response to the Stahala grievance, although a response was eventually sent.

21. On June 29, 2006, Renee M. Allen (hereinafter "Allen") paid Spransy \$375 to handle a speeding ticket for her that she had received in Wadesboro, NC.

22. As Spransy requested, Allen executed a waiver of appearance form on August 23, 2006 and delivered it to Spransy.

23. Spransy failed to appear in court in Anson County on Allen's behalf on her October 12, 2006 court date.

24. Allen received an October 17, 2006 letter from the State of North Carolina Department of Motor Vehicles (hereinafter "NC DMV") indicating that her license would be suspended for her failure to appear.

25. Thereafter, Allen wrote and called Spransy to get a response to her inquiries concerning her driver's license.

26. Spransy failed to respond to Allen's inquiries.

27. As a result of Spransy's failure to communicate with her, Allen had to retain other counsel to make sure she did not lose her driver's license.

28. On February 9, 2007, Allen filed a grievance with the State Bar.

29. On April 20, 2007, Spransy was served with a Letter of Notice requiring a response to the Allen grievance within 15 days.

30. Although Spransy knew about the grievance and signed for it, he did not provide a timely response to the Allen grievance, although a response was eventually sent.

31. On April 17, 2007, Lawrence Burke (hereinafter "Burke") paid Spransy \$175 to represent him in a traffic matter.

32. The day prior to Burke's court date, Spransy's office informed Burke that he did not need to attend court.

33. Spransy failed to appear in court for Burke.

34. As a result of Spransy failing to appear in court for him, Burke received a July 17, 2007 letter from NC DMV advising him that his driving privilege would be suspended if he did not comply with his citation.

35. Burke called Spransy's office concerning the NC DMV letter and was told that it was probably a clerical error.

36. Spransy did nothing further on Burke's behalf. As a result, Burke had to take care of resolving his traffic ticket on his own.

37. On August 22, 2007, Burke filed a Petition for Mandatory Fee Dispute Resolution with the North Carolina State Bar seeking to recover the \$175 he paid to Spransy.

38. On August 23, 2007, Spransy was notified by certified mail of Burke's fee dispute and directed to provide a written response within 15 days of receipt of the letter.

39. Spransy received the notification of Burke's fee dispute on August 27, 2007.

40. Spransy failed to respond to the Burke fee dispute petition.

41. On June 28, 2007, Wendy S. Garbus (hereinafter "Garbus") retained Spransy to represent her in a criminal matter in Cabarrus County and paid Spransy \$500.

42. Garbus appeared in court on her scheduled court date, July 9, 2007.

43. Spransy failed to appear in court for Garbus on July 9, 2007.

44. Garbus got her case continued and notified Spransy's office of the new court date of August 6, 2007.

45. Spransy failed to appear in court for Garbus on August 6, 2007.

46. On August 15, 2007, Garbus sent Spransy a certified letter stating that since she had been trying to contact Spransy for over a month with no response and since Spransy did not appear for her court dates, Garbus was discharging Spransy and requesting a refund of her payment.

47. Spransy did not refund the fee to Garbus.

48. On March 26, 2007, Jeffrey Ditesheim retained Spransy to represent him and his wife, Dana Ditesheim, on traffic citations each had received.

49. Thereafter, Dana Ditesheim received a June 5, 2007 letter from NC DMV advising her that her driver's license would be suspended for her failure to appear in court on her citation.

50. The letter from NC DMV was faxed to Spransy's office. In a subsequent telephone call, Spransy's administrative assistant told Ditesheim's representative that Spransy was in court taking care of the matter at that time.

51. On August 14, 2007, Spransy sent a billing statement for attorney fees, costs and fines in reference to both citations.

52. On August 15, 2007, a check was mailed to Spransy to pay the bills for both citations.

53. Thereafter, Jeffrey Ditesheim received a September 4, 2007 letter from the NC DMV advising him that his driver's license would be suspended for his failure to appear in court for his citation.

54. The letter from NC DMV was faxed to Spransy's office. Despite numerous attempts to reach Spransy by email and telephone, the Ditesheims received no response from Spransy.

55. After receiving no communication from Spransy, Jeffrey Ditesheim retained another attorney to resolve the matter prior to NC DMV's deadline.

56. The new attorney found that Spransy had finally resolved both citations, but that the costs for the citations remained unpaid. That attorney also discovered that Dana Ditesheim's license had been suspended on August 4, 2007.

57. John D. Biggs (hereinafter "Biggs") retained Spransy to handle a traffic ticket for him and paid Spransy \$400.

58. Spransy failed to appear in court for Biggs.

59. As a result of Spransy failing to appear in court for him, Biggs' license was suspended by South Carolina.

60. Biggs left messages for Spransy advising him of his license suspension problem and seeking assistance.

61. Spransy failed to timely respond to Biggs' requests for assistance.

62. In March 2007, Tomeka Wilson (hereinafter "Wilson") retained Spransy to represent her on a driving while license revoked charge.

63. Wilson paid Spransy \$370 including \$120 for court costs.

64. After having the case continued from the initial court date, Spransy failed to appear in court for Wilson on April 28, 2007.

65. As a result of Spransy failing to appear in court for her, Wilson was arrested.

66. After not being able to reach Spransy, Wilson had to get a bondsman to get her out of jail.

67. Wilson went to Spransy's office to advise him of her new court date of August 1, 2007. Spransy was not there, so Wilson left the information with Spransy's administrative assistant.

68. Unsure of whether Spransy would appear on August 1, 2007, Wilson attended court. While she was in the courthouse, Spransy's administrative assistant called to advise Wilson that Spransy had her court date put off. Wilson left the courtroom.

69. Because Spransy had not continued Wilson's August 1, 2007 court date, Wilson was again arrested.

70. Wilson made numerous attempts to communicate with Spransy, including leaving messages with Spransy's assistant advising Spransy of her next court date of September 6, 2007, but Spransy never returned any of her calls.

71. Spransy failed to appear in court for Wilson on her September 6, 2007 court date.

72. Much of Spransy's failure to communicate with these clients and others was caused by his administrative assistant who failed to advise Spransy of the inquiries made by his clients. However, Spransy is ultimately responsible for his employee's failure to advise him of his need to communicate with his clients.

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 Spransy and the subject matter.
2. Spransy's conduct, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(a) & (b) (2) in that Spransy violated the Revised Rules of Professional Conduct as follows:
 - (a) by failing to have Alexander's case properly continued from the docket on October 5, 2005 and by failing to appear in court for Alexander on October 5, 2005 and October 13, 2005, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
 - (b) by failing to respond to Roberts' communications on behalf of Alexander, Spransy failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);

- (c) by failing to respond to the 26th Judicial District Bar's attempts to get a response to the Alexander grievance, Spransy failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (d) by failing to pay the costs he had received from Stahala to the Clerk of Superior Court, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to promptly deliver entrusted funds to a third person as directed by the client in violation of Rule 1.15-2(m);
- (e) by failing to respond to the Letters of Notice sent to him in the Stahala and Allen grievances, Spransy failed to respond to a lawful demands for information from a disciplinary authority in violation of Rule 8.1(b);
- (f) by failing to appear in court for Allen on October 12, 2006, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (g) by failing to respond to Allen's communications concerning her driver's license, Spransy failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);
- (h) by failing to appear in court for Burke on his court date, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (i) by failing to take any action on Burke's behalf after his office had been told by Burke that he had gotten a letter from NC DMV advising him that his license would be suspended for his failure to appear in court, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (j) by failing to provide a response to Burke's fee dispute petition, Spransy failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f)(2);
- (k) by failing to appear in court for Garbus on each of her court dates, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (l) by failing to refund the fee to Garbus that he had failed to earn, Spransy failed to take steps reasonably practicable to protect his client's interest by refunding an advance fee that he had not earned in violation of Rule 1.16(d);
- (m) by failing to appear in court for each of the Ditesheims on their court dates, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

- (n) by failing to pay the costs he had received on behalf of the Ditesheims to the Clerk of Superior Court, Spransy failed to promptly deliver entrusted funds to a third person as directed by the clients in violation of Rule 1.15-2(m);
- (o) by failing to refund the costs and fines collected for the Ditesheims' cases that he failed to pay to the court, Spransy failed to take steps reasonably practicable to protect his clients' interest by refunding an advance expense in violation of Rule 1.16(d);
- (p) by failing to appear in court for Biggs, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (q) by failing to respond to Biggs' communications concerning his driver's license, Spransy failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4);
- (r) by failing to appear in court for Wilson on April 28, August 1, and September 6, 2007, Spransy failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3; and
- (s) by failing to respond to Wilson's communications concerning her pending case, Spransy failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4).

BASED UPON the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, and the arguments of counsel, the hearing committee hereby makes the following:

FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE

1. Spransy's misconduct is aggravated by the following factors:
 - (a) A pattern of misconduct;
 - (b) Multiple offenses; and
 - (c) Substantial experience in the practice of law.
2. Spransy's misconduct is mitigated by the following factors:
 - (a) Absence of a prior disciplinary record;
 - (b) Absence of a dishonest or selfish motive;
 - (c) Personal or emotional problems;

- (d) Interim rehabilitation; and
 - (e) Remorse.
3. The mitigating factors outweighed the aggravating factors.
 4. Prior to the relevant time of his misconduct, Spransy was experiencing significant personal problems in his life that caused him to suffer from depression.
 5. In 2006, Spransy sought treatment for his depression from a psychiatrist. Spransy took medication for two months. Spransy also began therapy with a clinical psychologist, Dr. Matthew Alexander, Ph.D. M.A. who he saw until the Fall of 2007.
 6. Just prior to the time of his misconduct, Spransy became erratic in the taking of his medication due its unpleasant side effects. The lack of appropriate medication contributed to Spransy's loss of judgment that led to his misconduct.
 7. Spransy'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 and CONCLUSIONS OF LAW, the FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE, the hearing committee hereby enters the following:

ORDER OF DISCIPLINE

1. The license of the defendant, Scott B. Spransy, is hereby suspended for a period of six months.
2. The suspension of Spransy's license is stayed for a period of three years on the following conditions:
 - (a) Spransy shall, at his own expense, be examined by a psychiatrist approved by the Office of Counsel, and continue therapy with Matthew Alexander, or other therapist approved by Spransy's psychiatrist, as long as recommended by the psychiatrist; and shall comply with the course of treatment prescribed by his psychiatrist for the next three years, or until Spransy is released from treatment, whichever first occurs;
 - (b) Spransy shall be responsible for ensuring that a written report is received in the Office of Counsel from his psychiatrist on January 1, 2009-2011, April 1, 2009-2011, July 1, 2009-2011 and October 1, 2009-2011. Those reports shall indicate whether Spransy is following his treatment plan and whether the condition for which he is being treated impairs his

professional judgment, performance or competence as an attorney. If the psychiatrist releases Spransy from any further treatment, the reports may be discontinued;

(c) Within 30 days of service of this Consent Order of Discipline, Spransy shall provide the Office of Counsel with a written release, authorizing the Office of Counsel to contact Spransy's psychiatrist for the purpose of determining whether Spransy is following his treatment plan and whether the condition for which he is being treated impairs his professional judgment, performance or competence as an attorney. Spransy shall not revoke his written release given to his psychiatrist, prior to November 1, 2011;

(d) Spransy shall make refunds of the following amounts to the following clients by December 5, 2009:

- | | | |
|-----|--|------------|
| (1) | Adam Alexander | \$1,000.00 |
| (2) | Renee M. Allen | 375.00 |
| (3) | Lawrence Burke | 175.00 |
| (4) | Jeffrey Ditesheim - the part of the \$650 Ditesheim paid Spransy that was for costs and fine | |

(d) Spransy shall not violate any state or federal laws during the period of the stayed suspension;

(e) Spransy shall not violate any provisions of the Rules of Professional Conduct during the period of his stayed suspension;

(f) Spransy shall respond to all communications from the North Carolina State Bar within 30 days of receipt or by the deadline stated in the communication, whichever is sooner; and

(g) Spransy shall pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education (CLE) requirements on a timely basis.

3. If the stay of the suspension of Spransy'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 Spransy's law license at the end of the suspension period.

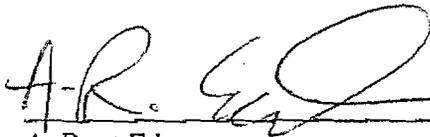
4. Spransy is taxed with the costs of this action as assessed by the Secretary and shall pay those costs within 90 days of service of notice of those costs.

Signed with the knowledge and consent of the other members of the hearing committee

this the ____ day of December 2008.

Theodore C. Edwards, II, Chair
Hearing Committee

CONSENTED TO:



A. Root Edmonson



Scott B. Spransy

this the 19th December day of ~~October~~ 2008.

Theodore C. Edwards II
Theodore C. Edwards, II, Chair
Hearing Committee

CONSENTED TO:

A. Root Edmonson

Scott B. Spransy