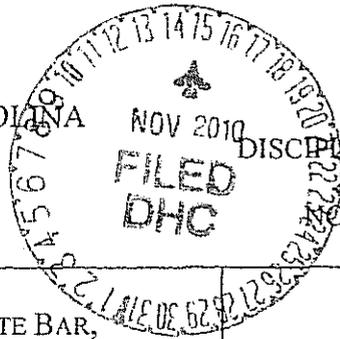


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 06

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

STUART A. BROCK, Attorney,

Defendant

CONSENT ORDER OF DISCIPLINE

This matter came before a hearing panel of the Disciplinary Hearing Commission composed of Theodore C. Edwards, II, Chair, C. Colon Willoughby, Jr. and David L. Williams. Leonor Bailey Hodge represented Plaintiff. Defendant was represented by Dudley A. Witt. Defendant waives a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order. The parties consent to the discipline imposed by this order. Defendant knowingly, freely and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings by consenting to the entry of this order.

Based on the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

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, Stuart A. Brock (hereinafter "Defendant"), was admitted to the North Carolina State Bar on August 18, 2000 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. Defendant was an associate in a multistate law firm from September 2000 through 31 January 2010.

4. Beginning in April 2008, Defendant represented Diane and Peter Baxter (the "Baxters"), clients of the firm, in immigration matters.

5. When the representation began, the Baxters had already filed a petition for permanent residence in the United States with the US Citizenship and Immigration Services ("CIS"). They sought Defendant's help in facilitating and expediting their immigration petition.

6. Defendant failed to make a request to expedite the Baxters' immigration petition or to perform any other substantive work on their behalf.

7. Defendant gave the Baxters false updates purporting to summarize his work on their case.

8. Defendant billed the Baxters for work he did not perform.

9. In December 2008, Defendant falsely informed the Baxters that his request to expedite their immigration petition was denied by sending Lawrence Baxter an email Defendant claimed to have received from a CIS liaison.

10. At the time Defendant falsely represented to the Baxters that his request to expedite their immigration petition was denied, Defendant had not received any correspondence from CIS.

11. Defendant fabricated the email he forwarded to Mr. Baxter.

12. After Defendant sent the fabricated email to Mr. Baxter, Defendant was confronted by members of his firm about the Baxters' concern that he was neglecting their case. At that time, Defendant falsely represented to members of his firm that he had been working with a CIS employee named "Mary" who told him over the phone that the Baxters' petition was being expedited and that documents were being sent to him to verify Peter Baxter's immigration status.

13. Defendant did not have any communications with a CIS employee named "Mary." "Mary" was a fictitious person Defendant created to hide his neglect of the Baxters' case.

14. Defendant later acknowledged to members of his firm that "Mary" was a fictitious person.

15. Defendant told members of his firm that he had telephone conversations with CIS employees on behalf of the Baxters seeking to expedite their immigration petition.

16. Defendant did not have any telephone conversations with CIS employees on behalf of the Baxters seeking to expedite their immigration petition.

17. Defendant billed the Baxters for the telephone calls he falsely claimed to have made to CIS on their behalf.

18. During the same time period that Defendant represented the Baxters, Defendant represented another client of the firm in immigration matters (this client is hereinafter referred to as "Client YF"). During his representation of Client YF, Defendant was asked to have a travel restriction removed from Client YF's existing visa.

19. Defendant failed to contact CIS on behalf of Client YF to request removal of the travel restriction and failed to perform any other substantive work on Client YF's behalf related to removal of the travel restriction.

20. Defendant billed Client YF for work related to a request to remove a travel restriction from Client YF's visa though Defendant failed to perform this work.

21. Also during the same time period that Defendant represented the Baxters, Defendant was retained to prepare and file an immigration application on behalf of another firm client (this client is hereinafter referred to as "Client IA").

22. Defendant prepared the application for Client IA, but failed to file it.

Based on the foregoing 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, Stuart Brock, and over the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-24(b)(2) in that Defendant violated the Rules of Professional Conduct as follows:

- a. By neglecting his representation of the Baxters, Client YF and Client IA, Defendant failed to act with reasonable diligence and promptness in representing his clients in violation of Rule 1.3;
- b. By falsely stating to the Baxters that their request to expedite had been denied, fabricating an email from a fictitious CIS liaison and falsely claiming to have made calls to CIS on behalf of the Baxters, and by billing the Baxters and Client YF for work that he did not perform, Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4 (c);

- c. By billing the Baxters and Client YF for work that he did not perform, Defendant charged an illegal fee in violation of Rule 1.5(a);

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

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant was suffering from inadequately treated bipolar disorder and undiagnosed alcohol addiction during the time of his misconduct.
2. Defendant was suffering a major depressive episode at the time of his misconduct.
3. All of the misconduct at issue in this case occurred during the time period in which Defendant suffered his major depressive episode. Prior to this misconduct, Defendant had a good reputation amongst his peers.
4. In January 2009 after the misconduct at issue, Defendant was hospitalized and ceased practicing law. During his hospitalization, Defendant learned that he had been inadequately treated for his mental illness.
5. Upon his release from the hospital, Defendant promptly sought intensive outpatient treatment for his mental illness and alcohol addiction. For two (2) months, Defendant spent the entire eight (8) hour workday at a treatment facility undergoing treatment though he did not stay overnight at the treatment facility.
6. Defendant did not work while he was in the intensive portion of his outpatient treatment nor did he work for the three (3) month period next following his release from the intensive outpatient treatment facility.
7. Defendant first returned to work as a non-legal consultant on human resource matters – Defendant did not practice law during this time. Defendant worked on one matter as a consultant.
8. Defendant continued to refrain from the practice of law and next worked as a paralegal for four (4) months.
9. Defendant voluntarily refrained from the practice of law for a total of eleven (11) months while he sought treatment for his mental illness and alcohol addiction, and received counseling about how to integrate his treatment with his practice of law. Defendant returned to the practice of law in December 2009 only with the consent of his treating physicians.

10. Defendant has since obtained treatment from physicians experienced in the treatment of bipolar disorder and alcohol addiction and followed his physicians' treatment recommendations.

12. Defendant's bipolar disorder contributed to his neglect of the immigration matters described in the Findings of Fact section above.

13. The combination of Defendant's bipolar disorder and alcohol addiction likely contributed to his misconduct.

14. Defendant has exhibited extreme remorse for his misconduct.

15. Defendant has no prior disciplinary history.

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

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure and suspension.

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

- a. negative impact of the Defendant's actions on public's perception of the profession;
- b. impairment of the client's ability to achieve the goals of the representation;
- c. acts of dishonesty, misrepresentation, deceit or fabrication;
- d. experience in the practice of law;
- e. the absence of prior disciplinary offenses;
- f. effect of mental disability and impairment on the conduct in question;
- g. interim rehabilitation;

- h. full and free disclosure to the Hearing Panel and cooperative attitude toward the proceedings;
- i. remorse; and
- j. character and reputation.

3. Defendant's conduct caused significant harm to the legal profession in that his actions bring the legal profession into disrepute.

4. Defendant's conduct caused significant harm to his clients by delaying their immigration petitions and impeding their ability to legally remain in the United States.

5. Defendant's conduct has the potential to cause significant harm to the legal profession because it shows a disregard for his obligation as an attorney to be truthful at all times.

6. The Hearing Panel has considered lesser alternatives and finds that a censure, reprimand or admonition would be insufficient discipline because of the gravity of the conduct, the harm to Defendant's clients and the potential harm to the legal profession caused by Defendant's conduct.

7. The Hearing Panel finds that discipline short of suspension would not adequately protect the public for the following reasons:

- a. Defendant's conduct reflects adversely on his trustworthiness or fitness as a lawyer;
- b. Entry of an order imposing less severe discipline would fail to acknowledge the seriousness of the misconduct and would send the wrong message to attorneys and the public about the conduct expected of members of the Bar of this State.

8. The Hearing Panel would impose an active suspension of Defendant's license to practice law if it were not for the evidence that:

- a. Defendant's misconduct was apparently isolated to the time period during which he suffered a major depressive episode;
- b. Defendant had an inadequately treated bipolar disorder and undiagnosed alcohol addiction during the time of his misconduct that likely contributed to Defendant's misconduct;
- c. Defendant promptly sought treatment for his mental illness after he learned that he had been inadequately treated for his

bipolar disorder and that he suffered from an undiagnosed alcohol addiction; and

- d. Defendant has continued medical and psychological treatment and addiction counseling.

9. In consideration of the unique circumstances in which this misconduct occurred, the Hearing Panel finds and concludes that the public will be adequately protected by suspension of Defendant's law license, stayed with conditions imposed upon Defendant designed to ensure protection of the public and Defendant's continued compliance with the Rules of Professional Conduct.

Based on the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE

1. The law license of Defendant, Stuart A. Brock, is hereby suspended for five (5) years effective from the date this Order of Discipline is served upon him. The period of suspension is stayed for five (5) years as long as Defendant complies and continues to comply with the following conditions:

- a. Defendant shall continue with all prescribed medical and/or psychiatric treatments as determined by his current treating psychiatrists and/or mental health professionals. If Defendant deems it necessary to change medical providers in the future, Defendant shall first submit the name and credentials of this proposed new medical provider to the Office of Counsel for approval, which approval shall not be unreasonably withheld.
- b. Defendant shall direct his treating mental health care providers to provide quarterly reports to the Office of Counsel describing in detail Defendant's current treatment regimen, compliance with treatment recommendations, and prognosis and treatment plan for the next three months. The first such report shall be submitted to the State Bar thirty (30) days from the initial date of stay of Defendant's suspension; subsequent reports shall be submitted on the first day of the first month of each quarter thereafter (January, April, July, October); any cost associated with the counseling or reports shall be borne by Defendant;
- c. Defendant shall provide the Office of Counsel with releases authorizing and instructing psychological and mental health care providers to provide the Office of Counsel all medical records relating to his evaluation, prognosis, care or treatment, including psychological

and mental health evaluations, and authorizing and instructing such providers to submit to interviews by the Office of Counsel;

- d. Defendant shall abstain from the consumption of any alcohol during the period of the stay;
- e. Defendant shall abstain from the consumption of any controlled substance other than as expressly authorized by a treating physician during the period of stay;
- f. Defendant will register for random alcohol screens with a monitoring service agreed to by the parties. Such monitoring will include twelve alcohol screens per year and will be at Defendant's expense; the monitoring agreement will require the monitoring service to report to the State Bar any failure of Defendant to take or pay for the test and any positive test result; Defendant will enter into a monitoring program within thirty days of the date of this order; Defendant will sign all necessary releases or documents to authorize such reporting and shall not revoke such release(s) during the period of stay;
- g. Defendant shall keep the North Carolina State Bar Membership Department advised of his current business and home addresses and notify the Bar of any change in address within ten (10) days of such change;
- h. Defendant shall respond to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty (30) days of receipt or by the deadline stated in the communication, whichever is sooner, and shall participate in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;
- i. Defendant shall timely comply with all State Bar membership and Continuing Legal Education requirements;
- j. Defendant shall not violate the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension.

2. All medical records produced by Defendant in accordance with the terms of this Order shall be maintained under seal and not available for review by the public unless allowed by further order of the Disciplinary Hearing Commission after the requesting party has shown by clear, cogent and convincing evidence that there is a compelling need to obtain Defendant's medical records, that the requesting party is legally authorized to obtain a copy of Defendant's medical records and that the only

source from which these records can be obtained is the State Bar. All medical records produced by Defendant in accordance with the terms of this Order shall be available for review by the Office of Counsel at the discretion of the Office of Counsel. Nothing contained in this Order shall be construed to limit the Office of Counsel's access to Defendant's medical records.

3. If Defendant fails to comply with any of the conditions of the stayed suspension provided in paragraph 1(a) – (j) above, the stay of the suspension may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

4. If the stay granted herein is lifted or the suspension of Defendant's license is activated for any reason, before seeking reinstatement of his license to practice law, Defendant must show by clear, cogent and convincing evidence that he has complied with each of the following conditions:

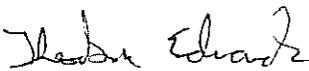
- a. Defendant submitted his license and membership card to the Secretary of the North Carolina State Bar within thirty (30) days after the date of the order lifting the stay and/or activating the suspension of his law license;
- b. Defendant complied with all provisions of 27 N.C.A.C. 1B § .0124 of the State Bar Discipline and Disability Rules following the order lifting the stay and/or activating the suspension of his law license;
- c. That at the time of the petition Defendant is not suffering from any disability or addiction that would impair his ability to practice law;
- d. Defendant has provided the Office of Counsel with releases authorizing and instructing his psychological and mental health care providers to provide the Office of Counsel all medical records relating to his evaluation, prognosis, care or treatment, including psychological and mental health evaluations, and authorizing and instructing such providers to submit to interviews by the Office of Counsel;
- e. Defendant has kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the Bar of any change in address within ten (10) days of such change;
- f. Defendant has responded to all communications from the North Carolina State Bar, including communications from the Attorney Client Assistance Program, within thirty (30) days of

receipt or by the deadline stated in the communication, whichever is sooner, and has participated in good faith in the State Bar's fee dispute resolution process for any petition of which he receives notice after the effective date of this Order;

- g. That at the time of his petition for stay, Defendant is current in payment of all Membership dues, fees and costs, including all Client Security Fund assessments and other charges or surcharges the State Bar is authorized to collect from him, and including all judicial district dues, fees and assessments;
- h. That at the time of his petition for stay, there is no deficit in Defendant's completion of mandatory Continuing Legal Education (CLE) hours, in reporting of such hours or in payment of any fees associated with attendance at CLE programs;
- i. Defendant has not violated the Rules of Professional Conduct or the laws of the United States or of any state or local government during his suspension;
- j. Defendant has paid the fees and costs of this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar.

5. Defendant is taxed with the 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 the Defendant.

Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Panel, this is the 15th day of November, 2010.

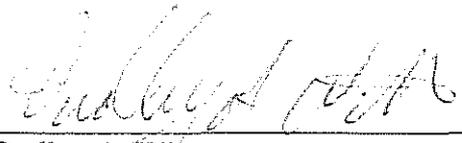


Theodore C. Edwards, II, Chair
Hearing Panel

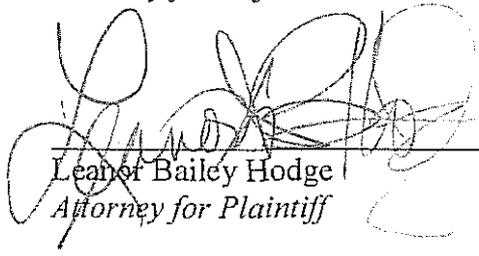
CONSENTED TO BY:



Stuart A. Brock
Defendant



Dudley A. Witt
Attorney for Defendant



Leann Bailey Hodge
Attorney for Plaintiff