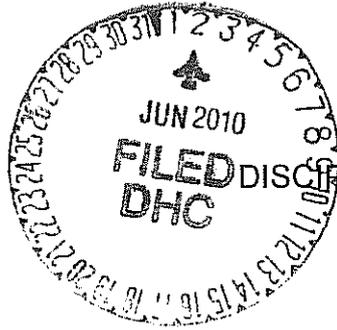


WAKE COUNTY
NORTH CAROLINA



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 24

THE NORTH CAROLINA STATE BAR)
Plaintiff)

v.)

PAMELA A. HUNTER, ATTORNEY)
Defendant)

ORDER
OF DISCIPLINE

THIS MATTER was heard on April 9, 2010 before a hearing panel of the Disciplinary Hearing Commission composed of Tommy W. Jarrett, Chair, Robert F. Siler and Donald G. Willhoit pursuant to 27 N.C.A.C. 1B §.0114 of the Rules and Regulations of the North Carolina State Bar. The Defendant, Pamela A. Hunter, was represented by N. Clifton Cannon, Jr. The Plaintiff was represented by Deputy Counsel Margaret Cloutier.

Based upon the record and the evidence introduced at the hearing, the Hearing Panel by clear, cogent and convincing evidence hereby makes the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code ("NCAC")).

2. Defendant, Pamela A. Hunter, was admitted to the North Carolina State Bar in 1978, 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.

3. During the times relevant hereto, Defendant was 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. During the times relevant hereto, Defendant represented Ramin Amini in a multiplicity of civil lawsuits and other actions prior to representing Amini in the actions that are the subject matter of this action.

5. On September 7, 2006 Bruce Sisk filed a Claim of Lien in Union County against Sepideh and Ramin Amini. The Claim of Lien listed the person(s) claiming the lien as

Bruce Sisk
Carter Management Associates
c/o Vann Law Firm, P.A.
9940 Monroe Road, Suite 201
Matthews, NC 28105

No other addresses or names appeared on the Claim of Lien for the person(s) claiming the lien.

6. The Claim of Lien was based on construction work Sisk contracted to perform for the Aminis at the Aminis' residence.

7. May 17, 2006 was listed on the Claim of Lien as the date upon which labor or materials were last furnished upon the property.

8. On October 10, 2006 Defendant filed a complaint styled *Ramin Amini and wife, Sepidah Amini v. Bruce Sisk, Carter Management Associates, and Bruce Sisk d/b/a Carter Management Associates*, Union County case no. 06 CVS 02289 (hereafter *Amini v. Sisk* lawsuit).

9. On October 10, 2006 a summons was issued in the *Amini v. Sisk* lawsuit.

10. Defendant hired a process server to obtain service in the *Amini v. Sisk* lawsuit.

11. None of the defendants in the *Amini v. Sisk* lawsuit were served within sixty days of the October 10, 2006 summons.

12. The October 10, 2006 summons issued in the *Amini v. Sisk* lawsuit expired on January 9, 2007.

13. The expiration of the statute of limitations on the claims of the Aminis was not imminent during the times relevant to Defendant's involvement in representing the Aminis.

14. Defendant did not obtain an endorsement of the October 10, 2006 summons and did not obtain an Alias and Pluries summons in the Amini v. Sisk lawsuit before January 9, 2007.

15. On October 27, 2006 Sisk filed a complaint styled *Bruce Sisk, Carter Management Services, Inc. v. Sepidah Amini, and husband Ramin Amini*, Union County case no. 06 CVS 02454 (hereafter Sisk v. Amini lawsuit).

16. The Amini v. Sisk lawsuit and the Sisk v. Amini lawsuit both asserted claims based on the construction work Sisk contracted to perform for the Aminis at the Aminis' residence.

17. The Aminis did not engage Defendant to file a responsive pleading to the Sisk v. Amini lawsuit.

18. On February 23, 2007 a default judgment was entered against the Aminis in the Sisk v. Amini lawsuit.

19. On February 23, 2007 Defendant filed on behalf of the Aminis a Motion for Relief from Judgment in the Sisk v. Amini lawsuit stating that the Aminis had not been served with the lawsuit.

20. After the October 10, 2006 summons in the Amini v. Sisk lawsuit expired on January 9, 2007, no Alias and Pluries summons or endorsements were issued in the Amini v. Sisk lawsuit until July 24, 2007.

21. On July 24, 2007 Defendant obtained an Alias and Pluries summons in the Amini v. Sisk lawsuit.

22. On July 28, 2007, Sisk was served with process in the Amini v. Sisk lawsuit.

23. Under the provisions of Rule 4(e) of the Rules of Civil Procedure the Amini v. Sisk lawsuit was discontinued between January 9 and July 24, 2007.

24. Thereafter, under the provisions of Rule 4(e) of the Rules of Civil Procedure, the Amini v. Sisk lawsuit was deemed to have commenced on July 24, 2007.

25. On July 28, 2007 Sisk was served with a copy of the complaint and summons in the Amini v. Sisk lawsuit.

26. On August 20, 2007 Sisk filed a Motion to Dismiss the Amini v. Sisk lawsuit.

27. After hearing on Sisk's Motion to Dismiss, the court dismissed the Amini v. Sisk lawsuit without prejudice. The order specified that the Aminis could not refile the lawsuit until the appellate courts resolved the Aminis' appeal of the denial of their motion to set aside the default judgment in the Sisk v. Amini lawsuit.

28. On March 4, 2008, the Court of Appeals affirmed the judge's denial of the Aminis' motion to set aside the default judgment in the Sisk v. Amini lawsuit.

29. On December 19, 2006 Rickey L. Wilson filed a complaint styled *Rickey L. Wilson v. DI-RA, LLC d/b/a Camron Transportation*, Mecklenburg County case no. 06 CVD 24009 (hereafter Wilson lawsuit).

30. Ramin Amini is a principal of Camron Transportation and engaged Defendant to represent Camron Transportation in the Wilson lawsuit.

31. Defendant did not file on behalf of Camron Transportation an answer to the Wilson lawsuit.

32. Defendant filed a Response to Plaintiff's Request for Admissions on behalf of Camron Transportation in the Wilson lawsuit.

33. Defendant received a letter from Wilson's attorney dated February 27, 2007 reminding Defendant that no answer had been filed. Defendant took no effective action in response to the letter dated February 27, 2007.

34. On March 19, 2007 Default was entered against DI-RA, LLC d/b/a Camron Transportation in the Wilson lawsuit.

35. On March 23, 2007 Defendant filed on behalf of Camron Transportation a Motion for Relief and To Set Aside Entry of Default. Defendant's motion was unsuccessful.

36. On August 23, 2007 Default Judgment was entered against Camron Transportation in the Wilson lawsuit.

37. Defendant personally paid the obligation owed by DI-RA, LLC d/b/a Camron Transportation in the Wilson lawsuit by agreement after Mr. Amini consulted other counsel.

38. Defendant, in filing her motion to set aside the Entry of Default in the Wilson lawsuit, did not herself take responsibility in the failure to timely file the Answer.

Based upon the foregoing Findings of Fact, the panel enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over the Defendant, Pamela A. Hunter, and the subject matter of this proceeding.

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

a. By failing to serve Sisk or Carter Management Services, Inc. in a timely manner and failing to renew the summons in 06 CVS 02289, resulting in discontinuance of the Amini v. Sisk lawsuit, Defendant recklessly failed to act with reasonable diligence and promptness in violation of Rule 1.3; and

b. By failing to file an answer on behalf of Mr. Amini's companies, defendants in the Wilson lawsuit, 06 CVD 24009, and allowing a default judgment to be entered against defendants, Defendant recklessly failed to act with reasonable diligence and promptness in violation of Rule 1.3.

Based upon the evidence presenting at the hearing, the hearing panel also finds by clear, cogent and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant's client, Ramin Amini, no longer trusts lawyers. He feels the need to check behind them and has lost regard for the legal profession in general.

2. Defendant's conduct caused actual significant harm to her clients. As a result of her inaction, her clients were unable to present claims and defenses to the court in the Amini v. Sisk lawsuit and the Wilson lawsuit. While some of the harm was offset by Defendant's subsequent payment of the amount of the default judgment in the Wilson lawsuit, Defendant's clients still suffered actual significant harm that has not been fully rectified.

3. Defendant's conduct also has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows disregard for her obligations as an attorney.

4. Defendant has been disciplined on three prior occasions: in January 2002 she received an Admonition from the Superior Court of Mecklenburg County, and in February 2004 she received an Admonition and a Reprimand from the Grievance Committee of the North Carolina State Bar. The February 2004 Reprimand cited conduct similar in nature to the conduct in the instant action.

5. In this proceeding before the Disciplinary Hearing Commission Defendant fully and freely disclosed the facts and circumstances surrounding the subject of this action and was cooperative in her participation.

6. Defendant expressed remorse for her conduct with respect to the Wilson lawsuit, but did not express remorse for her conduct with respect to the Amini v. Sisk lawsuit and did not acknowledge to the panel that her conduct in the Amini v. Sisk lawsuit was wrongful.

7. While Defendant did pay the amount of the judgment against her clients in the Wilson lawsuit, she did not make any effort to make restitution with respect to the Amini v. Sisk lawsuit.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel also enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. 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 finds the following factors are applicable in this matter:

- (a) Defendant's prior disciplinary offenses;
- (b) Defendant's timely good faith effort to make restitution with respect to the Wilson lawsuit;
- (c) Defendant engaged in multiple offenses;
- (d) Defendant's full and free disclosure to the hearing panel and cooperative attitude toward the proceedings;
- (e) Defendant's refusal to acknowledge the wrongful nature of her conduct with respect to the Amini v. Sisk lawsuit;
- (f) Defendant's remorse for her conduct with respect to the Wilson lawsuit; and

(g) Defendant's substantial experience in the practice of law.

2. The hearing panel has also 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 finds the following factor is applicable in this matter:

(a) The negative impact of Defendant's action on her client's perception of the profession.

3. Although a factor as delineated §.0114(w)(1)(E) is present in this case, the circumstances of this case do not warrant suspension or disbarment in order to protect the public.

4. The hearing panel has carefully considered all of the different forms of discipline available to it. An admonition or reprimand would fail to acknowledge the seriousness of the offenses committed by Defendant and would not adequately protect the public, the legal profession or the administration of justice.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, the hearing panel enters the following

ORDER OF DISCIPLINE

1. Defendant Pamela A. Hunter is hereby CENSURED for her misconduct.

2. Defendant is taxed with the costs of this action as assessed by the Secretary, including the cost of Defendant's deposition, which shall be paid within thirty days of service of the notice of costs upon the Defendant.

Signed by the undersigned Chair of the hearing panel with the full knowledge and consent of the other Panel members, this the 31 day of May, 2010.



Tommy W. Jarrett, Chair
Disciplinary Hearing Panel