

3959



WAKE COUNTY
NORTH CAROLINA

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

THE NORTH CAROLINA STATE BAR,)	
Plaintiff)	
)	CONSENT ORDER OF DISCIPLINE
v.)	
)	
WILLIAM M. SHEFFIELD, ATTORNEY,)	
Defendant)	

This matter was heard on the 15th day of November, 1996, before a hearing committee of the Disciplinary Hearing Commission composed of Robert B. Smith, Chair; Vernon Russell and Anthony E. Foriest. The defendant, William M. Sheffield appeared *pro se*. The plaintiff was represented by Sylvia S. Wood. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Based upon the consent of the parties, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. 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 North Carolina General Statutes and the Rules and Regulations of the North Carolina State Bar.
2. The defendant was admitted to the North Carolina State Bar in 1972 and was at all times relevant hereto licensed to practice law in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar.
3. During all times relevant hereto the defendant was actively engaged in the practice of law in North Carolina and maintained a law office in Chapel Hill, North Carolina.
4. The defendant waived his right to a formal hearing.

5. The defendant was properly served with process and the hearing was held with due notice to all parties.

6. The defendant failed to file responsive pleadings within the time permitted by the N.C. State Bar Discipline and Disbarment Rules, and therefore, default was entered against the defendant on September 23, 1996.

7. On July 14, 1993, defendant was retained to represent Patricia A. Meares, respecting a divorce and alimony action. Meares' father, William Earl White, paid defendant a retainer of \$750.00 for this representation. White had previously paid defendant a \$50.00 fee for an initial consultation in June of 1993.

8. Defendant agreed to file an immediate divorce for Meares, including a request for alimony and a property settlement.

9. Defendant drafted a complaint for divorce from bed and board, which was verified by Meares on August 30, 1993.

10. Defendant assured Meares that the complaint would be promptly filed with the court and served on Meares' husband.

11. Thereafter, Meares began to encounter difficulty obtaining information from defendant as to the status of her case.

12. By letter dated April 27, 1994, Meares asked defendant to obtain a divorce on her behalf immediately, or in the alternative, to tell her if he did not intend to proceed with the divorce. Defendant failed to adequately respond to this letter.

13. By letter dated May 15, 1994, White asked defendant to honor his obligation to obtain a divorce for Meares. White noted his frustration at being unable to contact defendant during the previous six months. White even offered to pay additional fees to defendant if he would complete the representation for which he had been previously paid. Defendant did not adequately respond to White or Meares as a result of this letter.

14. By letter dated October 6, 1994, Meares again wrote to defendant pleading with him to respond to her numerous messages. Meares noted that she had checked with the court, and that the divorce petition had not been filed. Meares stated in the letter that she was discharging defendant and requested him to return her file and refund the fee paid by White. Despite the fact that this letter was properly addressed, and despite three attempts by the postal service to deliver the letter, it was returned unclaimed by defendant.

15. By letter dated October 28, 1994, White again wrote to defendant on Meares' behalf, detailing defendant's lack of responsiveness and demanding that he immediately finalize Meares' divorce and communicate with Meares regarding the status of her case.

White included a self-addressed stamped envelope for defendant. Defendant did not adequately respond to White or Meares as a result of this letter.

16. Between April 27, 1994 and October 28, 1994, both Meares and White left numerous telephone messages on defendant's answering machine relating the same information contained in their correspondence to defendant.

17. Defendant failed to respond adequately to Meares' and White' demands and pleas for information and failed to take any action with respect to Meares' case, other than drafting a complaint, which was never filed or served.

18. Meares filed an application for fee arbitration to the North Carolina State Bar.

19. Both Meares and defendant agreed to be bound by the decision of the Fee Arbitration Committee. After a hearing, by letter dated November 30, 1995, the arbitrator awarded Meares a refund of \$700.00 of the fees paid to defendant.

20. Defendant failed to refund the \$700.00 in fees as ordered by the arbitrator.

21. On February 7, 1995, Meares filed a grievance with the North Carolina State Bar concerning defendant's conduct.

22. The Chairperson of the Grievance Committee issued a Letter of Notice to Defendant pursuant to Rule .0012(b) of the North Carolina State Bar Discipline and Disability Rules, commanding defendant to respond to the grievance within fifteen days.

23. Defendant received the Letter of Notice on March 3, 1996. By letter dated March 17, 1995, defendant requested an additional fifteen days to respond to the Letter of Notice, which was granted. However, defendant failed to respond to the Letter of Notice.

24. By letter dated May 4, 1995, Counsel for the North Carolina State Bar again requested defendant to respond to the Letter of Notice and answer certain specific inquiries regarding his representation of Meares, by May 14, 1995.

25. By letter dated May 11, 1995, defendant stated that he would submit a response by the first of the week of May 15, 1995. Defendant failed to do so.

26. On or about December 1, 1995, Counsel for the North Carolina State Bar again wrote to defendant, noting that defendant still had not filed a written response to the grievance or Counsel's inquiries, despite his promises to do so. Counsel again urged defendant to respond within ten days of the date of the letter. Defendant failed to respond.

27. Defendant's depression during the events described herein contributed to his misconduct.

28. Subsequent to the commencement of this action, defendant refunded the \$700.00 in fees to Meares, as ordered by the arbitrator on November 30, 1995.

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

CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the defendant and the subject matter of this proceeding.
2. The defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) and (3) as follows:
 - a. By failing to pursue obtaining a divorce and associated proceedings on Meares' behalf and by failing to respond to numerous requests for information as to the status of Meares' case, defendant failed to keep his client reasonably informed about the status of her case and to promptly comply with reasonable requests for information, in violation of Rule 6(b)(1); failed to explain a matter to the extent reasonably necessary to permit his client to make informed decisions regarding the representation, in violation of Rule 6(b)(2); failed to act with reasonable diligence and promptness in representing his client, in violation of Rule 6(b)(3); failed to seek the lawful objectives of his client, in violation of Rule 7.1(a)(1); and failed to carry out a contract of employment, in violation of Rule 7.1(a)(2).
 - b. By failing to promptly return \$700.00 of the fees to Meares as ordered by the arbitrator, defendant failed to refund promptly any part of his fee paid in advance that had not been earned, in violation of Rule 2.8(a)(3).
 - c. By failing to respond to the grievance filed by Meares and to follow up inquiries of the State Bar, defendant knowingly failed to respond to lawful demands for information from a disciplinary authority in violation of Rule 1.1(b).

Based upon the consent of the parties, the hearing committee also enters the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. The defendant's misconduct is aggravated by the following factors:

- a. Defendant has prior disciplinary offenses.
 - b. Defendant has substantial experience in the practice of law.
 - c. Defendant engaged in multiple violations of the Rules of Professional Conduct.
 - d. The victim of defendant's misconduct was vulnerable.
2. The defendant's misconduct is mitigated by the following factors:
- a. Defendant has sought interim rehabilitation by voluntarily seeking the assistance of LMAP.
 - b. Defendant has sought interim medical treatment for depression.
 - c. Defendant has exhibited remorse for his conduct.
 - d. Defendant did not have a dishonest motive.
 - e. After the filing of the formal complaint, defendant provided full and free disclosure to counsel and displayed a cooperative attitude toward these proceedings.

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

ORDER OF DISCIPLINE

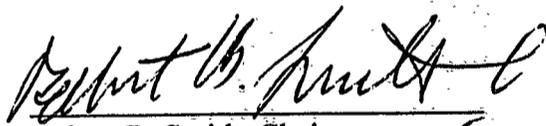
1. The defendant is hereby suspended from the practice of law in North Carolina for one year, effective 30 days from the date of service of this order upon defendant.
2. The one year suspension is stayed for three years from the effective date of this order, based upon the following conditions:
 - a. Defendant shall violate no provisions of the Rules of Professional Conduct of the North Carolina State Bar during the three year stay period.
 - b. Defendant shall pay all of his mandatory annual dues and client security fund assessments to the North Carolina State Bar no later than June 30 of each year of the three year stay period.
 - c. Defendant shall comply with all continuing legal education requirements of the North Carolina State Bar.

- d. Defendant shall respond to all Letters of Notice and requests for information from the North Carolina State Bar by the deadline stated within the communication.
- e. Defendant shall select a member of the Orange County Bar, to be approved by the Secretary of the N.C. State Bar, who will supervise defendant's practice throughout the three-year stay period. Defendant shall meet with the supervising attorney at least once each month to ensure that defendant handles client matters promptly, that his case load remains of a manageable size and that he responds to requests for information from clients and the N.C. State Bar in a timely fashion. Defendant shall ensure that a written report is submitted to State Bar counsel on January 1, April 1, July 1 and October 1 of each year during the stay period verifying that these meetings have taken place and that defendant is cooperating with the supervising attorney. The first report is due to the State Bar on January 1, 1997.
- f. During the first year of the three year stay period, defendant shall complete at least three hours of continuing legal education courses dealing with law office and/or caseload management offered by a sponsor approved by the North Carolina Board of Continuing Legal Education. Defendant shall submit written certification to the Bar of the name of the sponsor of the course, course title and dates of attendance, no later than the January 31, 1998. The courses used to satisfy this provision of the order may be applied toward defendant's existing continuing legal education requirements, subject to the approval of the Board of Continuing Legal Education of the N.C. State Bar.
- g. Defendant agrees, upon the effective date of this order, to submit to the Law Management Assistance Program (LMAP) of the Board of Continuing Legal Education, and to comply with all of the requirements of a two year course of training in law office management to begin on January 1, 1997. Defendant shall receive quarterly full day sessions to be completed by March 30, June 30, September 30, and December 31 of each year during the two year period, and he shall receive unannounced visits in the discretion of Nancy B. Jones, the Director of LMAP. Defendant shall bear the costs of all such training.
- h. Defendant shall continue to follow the treatment plan prescribed by Dr. Richard Mangum and Dr. Paula Browder or such successor psychiatrist, physician or psychologist selected by the defendant and approved by the Secretary of the N.C. State Bar. Defendant will bear the cost of all such counseling and/or treatment.

- i. Defendant shall provide written reports confirming that he is complying with the treatment plan referred to foregoing paragraph h. Such reports shall be due to the Secretary of the N.C. State Bar January 1, April 1, July 1, and October 1 during the first year of the three year stay and every January 1 and July 1 during the second and third year of the stay. The first report shall be due no later than January 1, 1997. The reports shall describe the course and status of the treatment being received by the defendant and may be written either by the defendant or his physician, but in any event, shall be signed by the defendant's physician.
- j. The defendant shall waive any patient-physician privilege as to Dr. Mangum, Dr. Browder and/or any successor psychiatrist, psychologist or physician respecting his treatment for depression or any other mental health condition. Upon the request of the State Bar, the defendant will execute a written release to permit the State Bar to obtain records and/or consult with the defendant's physicians respecting his treatment and medical condition. The defendant will cooperate with all efforts of the N.C. State Bar to contact and obtain information from Dr. Mangum, Dr. Browder or their successors regarding the defendant's treatment and medical condition.
- k. The defendant shall submit to examination by a psychiatrist selected by the N.C. State Bar upon request and 30 days notice by the State Bar at any time during the three-year stay period. The defendant shall pay for any such examinations.
- l. All medical information provided to the N.C. State Bar shall remain confidential, subject to the State Bar's need to introduce such evidence as a result of any violation of the provisions of this order during the three year stay.
- m. Defendant shall pay the costs of this proceeding on or before January 1, 1997.

Signed by the undersigned Hearing Committee Chair with the consent of the other Hearing Committee Members.

This the 15 day of November 1996.



Robert B. Smith, Chair
Hearing Committee

Reviewed and consented to:

William M. Sheffield
William M. Sheffield, Defendant

Sylvia S. Wood
Sylvia S. Wood
Attorney for the Plaintiff