

WAKE COUNTY
NORTH CAROLINA



12334

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
97 DHC 7

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

JENNIFER BROCK, Attorney,
Defendant

FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND ORDER
OF DISCIPLINE

This matter comes before a hearing committee of the Disciplinary Hearing Commission composed of Henry C. Babb, Jr., Chair, Richard T. Gammon and A. James Early, III. The Plaintiff was represented by Clayton W. Davidson, III, Deputy Counsel. The Defendant, Jennifer Brock, appeared pro se. 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 enters the following:

FINDINGS OF FACT

1. The Plaintiff, the North Carolina State Bar (the "State Bar") is a body duly organized under the laws of the State of North Carolina and is the proper body to bring this proceeding under the authority granted to it in Chapter 84 of the General Statutes of North Carolina and the rules and regulations of the State Bar promulgated pursuant thereto (the "State Bar Rules and Regulations").

2. The Defendant, Jennifer Brock, (the "Defendant") was admitted to the State Bar and is, and was at all times referred to herein, an attorney at law licensed to practice in North

Carolina subject to the State Bar Rules and Regulations and the Rules of Professional Conduct of North Carolina.

3. During all or a part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Davie County, North Carolina.

4. The Defendant waived her right to a formal hearing.

5. The Defendant has consented to accept service of process, hereby waives any defect with respect to service of process, and this order was entered with due notice to all parties.

6. On December 1, 1993, William Alton Teague ("Teague") retained Defendant to bring an action against certain individuals for misrepresenting the location of a real property boundary line on a parcel of real property which Teague had purchased.

7. In April, 1994 Defendant prepared a verified complaint for Teague and his wife to review, and which they signed in Defendant's presence on or about April 7, 1994, and which Defendant acknowledged in her capacity as a notary public.

8. On April 14, 1994, Defendant mailed a copy of the verified complaint by certified mail to the prospective defendants in the action being brought by Teague.

9. On July 7, 1994, Defendant sent a letter to Teague, which stated her intent to file the action within two weeks.

10. On October 26, 1994, Defendant sent a letter to Teague indicating that she had checked in the Office of the Clerk of Superior Court and had found no case file. The letter implied that the Clerk of Superior Court had made a mistake in failing to open a file after Defendant had filed the complaint.

11. On January 30, 1995, Defendant sent a letter to Teague stating that she had received the trial docket and that "our case was not high on the list. I have enclosed it for your information."

12. As of January 30, 1995, Defendant had not filed the complaint that she had previously prepared, or any other action on behalf of Teague, and Defendant knew that no such complaint had been filed.

13. On January 30, 1995, the Defendant mailed to Teague a document that appeared to be a court jury trial calendar issued by the Clerk of Superior Court of Davie County, North Carolina, and which contained an entry referencing a case, file number 94 CVS 550 in which Teague was listed as plaintiff and Defendant was listed as counsel for plaintiff.

14. The actual court calendar issued by the Clerk of Superior Court of Davie County did not contain an entry for a case with file number 94 CVS 550, and did not contain any case in which Teague was listed as a party.

15. The Defendant falsified the document which appeared to be a trial calendar and which was mailed to Teague on January 30, 1995, to induce Teague to believe that Defendant had filed an action on his behalf when in fact, no such action had been filed.

16. Teague was prejudiced by Defendant's actions, in that, among other things, as a result of Defendant's failure to promptly file the complaint a material witness to the matter died before the matter could be brought to trial.

17. Defendant's conduct in handling of the Teague matter constitutes an intentional pattern and practice of attempting to deceive a client with respect to the status of the client's matter.

Based on the forgoing findings of fact, the hearing committee enters the following:

CONCLUSIONS OF LAW

The Defendant's foregoing actions constitute grounds for discipline pursuant to NC GEN STAT § 84-28(b)(2) in that the Defendant violated the Rules of Professional Conduct as follows:

1. By knowingly making false statements to a client about the status of a client matter, and by willfully and intentionally falsifying a court calendar, the Defendant has engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 1.2(c), and has engaged in conduct that is prejudicial to the administration of justice in violation of Rule 1.2(d).

2. By knowingly making false statements to a client about the status of a client matter, and by willfully and intentionally falsifying a court calendar, and by failing to file the verified complaint after it was prepared and executed, the Defendant failed to keep the client reasonably informed about the status of a matter and failed to promptly comply with reasonable requests for information in violation of Rule 6(b)(1), and failed to act with reasonable diligence and promptness in representing the client in violation of Rule 6(b)(3).

3. By knowingly making false statements to a client about the status of a client matter, by willfully and intentionally falsifying a court calendar, and by failing to file the verified complaint after it was prepared and executed, the Defendant intentionally failed to seek the lawful objectives of the client in violation of Rule 7.1(a)(1), failed to carry out a contract of employment entered into with a client in violation of Rule 7.1(a)(2), and prejudiced or damaged a client during the course of a professional relationship in violation of Rule 7.1(a)(3).

Based on 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. a pattern of misconduct;
 - b. multiple violations.
2. The Defendant's misconduct is mitigated by the following factors:
 - a. absence of a prior disciplinary record prior to the filing of a complaint in this matter;
 - b. personal or emotional problems;
 - c. the Defendant has been diagnosed with a physical or mental impairment, and a course of treatment has been prescribed;
 - d. remorse.

Based on the forgoing findings of fact and conclusions of law and findings regarding discipline and based on 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 for a period of two years, which suspension shall be stayed for the term of the suspension provided that the Defendant complies with the following terms and conditions:
 - a. The Defendant, at Defendant's expense, shall become a patient of Dr. Stephen Hebert, or other psychiatrist approved by the office of the counsel of the North Carolina State Bar (the "Doctor"), shall remain a patient during the period of the suspension except as otherwise provided in subparagraph b below, and shall comply with the course of treatment prescribed.
 - b. At any point during the period of suspension, the Defendant shall immediately inform the North Carolina State Bar in writing if she ever ceases to be a patient, or otherwise fails to comply with course of treatment prescribed by the Doctor. The Defendant shall further instruct her Doctor to immediately inform the North Carolina State Bar if she ever ceases to be a patient, or otherwise fails to comply with course of treatment prescribed, shall authorize her doctor to release to the North Carolina State Bar information about her status as a patient upon the request of the North Carolina State Bar, and shall further authorize the Doctor to release to the North Carolina State Bar any and all medical records including but not limited to records

detailing the course of treatment, any diagnosis, and the Defendant's prognosis. The Defendant shall submit written reports signed by her Doctor providing full details about her course of treatment, diagnosis and prognosis, and certifying that she remains a patient and is complying with the Doctor's prescribed treatment plan. The reports shall be filed at the same time that Defendants quarterly certifications are due under subparagraph g below. If Defendant is discharged by the Doctor prior to the end of the suspension period, then the Defendant shall file a report signed by her doctor indicating that no further treatment is required, and that in the opinion of the Doctor that the Defendant should be allowed to continue in the practice of law.

c. The Defendant shall successfully complete the LMAP program operated by the North Carolina State Bar for a minimum of one (1) year. The Defendant shall contact the appropriate officials at the North Carolina State Bar and schedule an initial meeting within thirty (30) days from the date of this order. The Defendant shall attend any and all scheduled meetings. The Defendant shall pay in full the cost of the LMAP program at the time of the initial appointment with LMAP officials.

d. The Defendant shall violate no provisions of the Rules of Professional Conduct.

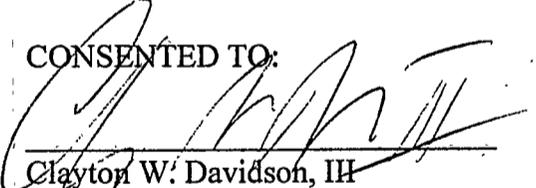
e. The Defendant shall violate no federal or state laws.

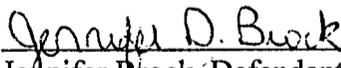
f. The Defendant shall pay all costs of this action within sixty (60) days from the date of this order.

g. The Defendant shall forward to the North Carolina State Bar quarterly certifications on the first day of January, April, July, and October during any year in which the suspension is stayed, certifying that she is currently in compliance with all of the terms and conditions of this order, and detailing any instance of non-compliance that occurred after the date of this order, and that was not disclosed to the North Carolina State Bar by the Defendant in a previous quarterly certification. The first certification shall be due July 1, 1997, or ten days from the entry of this order if the order is not entered before July 1, 1997.

Signed by the Chair with the consent of the other hearing committee members this
30 day of July, 1997.

CONSENTED TO:


Clayton W. Davidson, III
Attorney for the Plaintiff


Jennifer Brock, Defendant


Hearing Committee Chair