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WAKE COUNTY  
NORTH CAROLINA



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
02 DHC 18

THE NORTH CAROLINA STATE BAR	)	
Plaintiff	)	FINDINGS OF FACT
	)	CONCLUSIONS OF LAW
v.	)	& ORDER OF DISCIPLINE
	)	
JOHN V. NICOPOULOS, ATTORNEY	)	
Defendant	)	

THIS MATTER came on to be heard and was heard on Friday, June 13, 2003 by a duly appointed committee of the Disciplinary Hearing Commission composed of Stephen E. Culbreth, Chair; Karen Eady and H. Dale Almond. Carolin Bakewell represented the North Carolina State Bar. The Defendant, John V. Nicopoulos, did not appear in person or through counsel. Based upon the pleadings and evidence presented herein, the Hearing Committee hereby makes the following

1. The 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 promulgated thereunder.
2. The Defendant, John V. Nicopoulos (Nicopoulos), was admitted to the North Carolina State Bar in 1979, 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 Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During most of the periods relevant hereto, Nicopoulos maintained an office for the practice of law in Charlotte N.C.
4. Prior to December 1999, Robert Shaw and Cynthia Chatman (hereafter, respectively, Shaw and Chatman), retained Nicopoulos' services to represent them regarding three matters: 1) their claim against their landlord

arising out of the use of lead paint in a rental home occupied by Shaw and Chatman; 2) a wrongful termination claim on behalf of Chatman and 3) a malicious prosecution claim on behalf of Shaw.

5. Nicopoulos failed to take effective action to pursue any of the three legal matters for which Shaw and Chatman retained him. There was no evidence, however, that the statutes of limitation for the various claims had run or that Shaw and Chatman were unable to retain other counsel to handle their cases.

6. Nicopoulos failed to respond to all of the inquiries which Shaw and Chatman made about their cases.

7. In late 2000, Shaw and Chatman learned that Nicopoulos had left the law firm with which he had been employed. Nicopoulos did not advise Shaw and Chatman that he was leaving the firm, did not tell them how they could reach him after his departure, and did not return their file materials to them. Shaw and Chatman were able to retrieve their files and filing fee from Nicopoulos' law partners.

8. On Feb. 27, 2001, Shaw and Chatman filed a grievance against Nicopoulos with the North Carolina State Bar.

9. On June 21, 2001, the North Carolina State Bar served Nicopoulos with a letter of notice and substance of grievance concerning the Shaw-Chatman grievance by certified mail.

10. Pursuant to the N.C. State Bar's Discipline & Disability Rules, Nicopoulos' response to the letter of notice was due no later than July 8, 2002.

11. Nicopoulos did not obtain an extension of time in which to answer the letter of notice regarding the Shaw-Chatman grievance.

12. On July 20, 2001, deputy counsel for the N.C. State Bar sent a letter to Nicopoulos, reminding him that his response to the Shaw-Chatman grievance was overdue.

13. On or about Oct. 12, 2001, the N.C. State Bar received a partial response from Nicopoulos regarding the Shaw-Chatman grievance. Nicopoulos' response did not constitute a full, fair disclosure of the facts and circumstances pertaining to the alleged misconduct, as required by 27 N.C. Admin. Code, Ch. 1, Subchapter B, Section .0112(c) of the State Bar's Discipline & Disability Rules.

14. On Aug. 30, 2001, the State Bar issued a subpoena to Nicopoulos, commanding him to appear at the State Bar's office on Oct. 2, 2001 and produce his client file regarding Robert Shaw and Cynthia Chatman. The subpoena was

served upon Nicopoulos in person by the Mecklenburg County Sheriff's Department on Sept. 17, 2001.

15. Nicopoulos did not appear in compliance with the State Bar's subpoena.

16. On Feb. 14, 2002, bar counsel wrote to Nicopoulos and asked him to respond more fully to the Shaw-Chatman grievance.

17. Nicopoulos failed to respond in any fashion to bar counsel's Feb. 14, 2002 letter nor did he ever supplement his original partial response to the Shaw-Chatman letter of notice.

Based on the foregoing Findings of Fact, the hearing committee hereby enters the following:

#### CONCLUSIONS OF LAW

1. By failing to take effective action to assist Shaw and Chatman with the three legal matters they entrusted to him, Nicopoulos neglected his clients' cases in violation of Rule 1.3 of the Revised Rules of Professional Conduct.

2. By failing to respond to his clients' inquiries about their legal matters, Nicopoulos failed to keep his clients reasonably informed about the status of their cases, in violation of Rule 1.4 of the Revised Rules of Professional Conduct.

3. By 1) failing to tell Shaw and Chatman that he was leaving his law firm in the fall of 2000, and 2) failing to return their file materials to them, Nicopoulos failed to take all steps reasonably practicable to protect his clients' interests upon withdrawing from their case, in violation of Rule 1.16(d).

4. By failing to provide a full, fair, timely response to the letter of notice regarding the Shaw-Chatman grievance, ignoring the State Bar's subpoena and by failing to respond to bar counsel's Feb. 14, 2002 letter requesting additional information concerning that matter, Nicopoulos failed to respond to lawful demands for information from a disciplinary authority, in violation of Revised Rule 8.1(b).

In addition the foregoing Findings of Fact, based upon the evidence introduced at hearing, the Hearing Committee enters the following

#### ADDITIONAL FINDINGS OF FACT RELEVANT TO DISCIPLINE

1. Nicopoulos' violations of the Revised Rules of Professional Conduct are aggravated by the following factors:

- a. Nicopoulos violated multiple provisions of the Revised Rules of Professional Conduct.
- b. Nicopoulos has substantial experience in the practice of law.

2. Nicopoulos' misconduct is mitigated by the following factors:

- a. His misconduct was not motivated by dishonesty or selfishness and he did not personally benefit from it.
- b. He has no prior discipline.
- c. There was no pattern of misconduct. Shaw and Chatman are the only clients who have complained about Nicopoulos in the 23 years of his career.

3. The mitigating factors outweigh the aggravating factors.

4. Nicopoulos' law license was suspended in October 2001, based upon his failure to complete the minimum mandatory continuing legal education courses required by the State Bar. Consequently, he will not be able to resume the practice of law until he complies with the CLE Department's rules and pays all dues and fines owed to the State Bar.

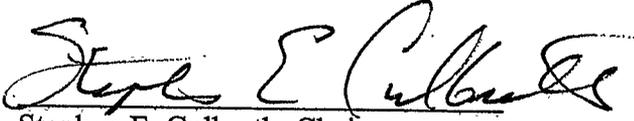
Based upon the foregoing Findings of Fact, Conclusions of Law and Findings of Fact Relevant to Discipline, the Hearing Committee hereby enters the following:

#### ORDER OF DISCIPLINE

1. The Defendant, John V. Nicopoulos, is hereby Reprimanded for his misconduct.
2. Nicopoulos shall pay the costs of this proceeding within 30 days of service of the Secretary's assessment of the costs.

Signed by the Chair of the Hearing Committee with the knowledge and consent of the other Committee members.

This the 26<sup>th</sup> day of June, 2003.

  
Stephen E. Culbreth, Chair  
Disciplinary Hearing Committee