

23837

NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF  
THE NORTH CAROLINA STATE BAR  
03 DHC25

The North Carolina State Bar,  
Plaintiff

v.

Cecelia M. Lewis, Attorney,  
(aka Cecelia M. Rhasiastry),  
Attorney,  
Defendant

**Consent Order of Discipline**

This matter came before a Hearing Committee of the Disciplinary Hearing Commission composed of Richard T. Gammer Chair, M. Ann Keed, and Dale Almond pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B Section .0114 (H) of the Rules and Regulations of the North Carolina State Bar. The defendant, Cecelia M. Lewis (also known as Cecelia M. Rhasiatry), was represented by Dudley A. Witt. The plaintiff was represented by David R. Johnson. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Further, by entering into this consent order of discipline, Defendant freely, voluntarily, and with the advice of counsel consents to the order of discipline, waives a formal hearing in the above referenced matter, and waives all right to appeal this consent order or challenge in any way the sufficiency of the findings, the conclusions, or the discipline imposed. Based upon the consent of the parties the hearing committee hereby enters the following:

## FINDINGS OF FACT

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, Cecelia M. Lewis (aka Cecelia M. Rhasiastry and hereinafter "Lewis"), was admitted to the North Carolina State Bar on 22 March 1997, 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 all or a portion of the relevant periods referred to herein, Lewis was actively engaged in the private practice of law in the town of Statesville, Iredell County, North Carolina.

4. Lewis has freely and voluntarily, with the advice of counsel, waived any right to a formal hearing in this matter and consents to entry of this Order of Discipline.

5. Lewis was properly served with process and the Complaint in this matter.

6. During the period from 13 November 2001 until early February 2002, Lewis was receiving medical treatment for drug dependency on an in-patient basis in the state of Virginia. During that period Lewis was unable to appear in court,

meet with clients, go to her office, or otherwise actively participate in her law practice or attend to the needs of her clients (hereafter referred to as "Lewis' medical leave of absence").

7. In June 2001, Lewis was retained by one Brian Keith Jones (hereafter "Jones") to represent him on pending state criminal drug offense charges. Lewis was paid \$500.00 toward a quoted flat fee of \$1,750.00 for representation on the state charges. Shortly thereafter, Jones was charged with federal criminal drug offenses. Lewis was retained to represent Jones on those charges as well. Lewis quoted Jones a flat fee of \$20,000.00, payable in advance, to represent Jones through disposition at the trial phase of the federal charges. Jones, through his sister Lisa Church (hereafter "Church"), paid the fee in installments and Church had paid the entire \$20,000.00 by August 2001. At that point, Lewis had received a total of \$20,500.00 to represent Jones on all charges.

8. Lewis did negotiate a plea agreement on Jones' behalf with the U.S. Attorney's office with respect to the federal charges, but failed to have the agreement executed and returned to the U.S. Attorney in proper form in a timely manner.

9. Lewis did not complete the services with respect to the state charges.

10. Jones' federal trial was scheduled for December 2001. In November 2001, just before beginning her medical leave of absence, Lewis notified Jones (through communications Church) that she was going to be out of town. Lewis then failed to communicate with either Jones or Church after that time. Neither Lewis nor anybody on her behalf contacted either Jones or Church to advise that Lewis had begun a medical leave of absence and was unavailable to handle Jones' trial in December.

11. Lewis made no arrangements with the U.S. Attorney or the Court to continue or otherwise reschedule Jones' trial in her absence. Lewis made no arrangements with other counsel to cover the Jones matter in her absence.

12. Jones discharged Lewis by letter dated 19 December 2001. Jones demanded a refund of \$18,000.00 as the balance of the \$20,500.00 in fees paid to Lewis that had not been earned. Jones engaged new counsel to represent him in December 2001.

13. Upon her return from her medical leave of absence in February 2002, Lewis met with Church and acknowledged receipt of the letter of discharge. Lewis advised Church that she would review the file and determine the amount of refund she would pay.

14. In March 2002, Lewis acknowledged that she owed \$15,000.00 to Jones as a refund of unearned fee. Lewis did not pay any amount to Jones at that time.

15. In May 2002, Lewis informed Jones and Church that she would pay the \$15,000.00 to them in installments at the rate of \$1,000.00 per week. Lewis did refund a total of \$6,000.00, but has yet to refund the balance of the unearned fee to Jones.

16. On or about 24 April 2002, one Pamela Erwin (hereafter "Erwin") engaged Lewis to represent her on a citation for speeding in the town of Newton, Catawba County, North Carolina. Erwin paid Lewis a \$100.00 to represent her on the citation. Lewis received the fee, the citation, and Erwin's waiver of appearance on or about 29 April 2002.

17. The initial court date on Erwin's citation was 3 June 2002. Lewis did not appear on behalf of Erwin on 3 June 2002. Erwin was "called and failed" by the court as a result.

18. Lewis did not notify Erwin that Lewis had not appeared on her behalf on the scheduled date and that no other action had been taken on Erwin's behalf by Lewis.

19. Shortly after the scheduled court date, Erwin received a notification from the Department of Motor Vehicles (DMV) that she had not appeared in court and that her license would be suspended unless corrective action was taken.

20. Erwin hired other counsel upon receiving the notice from DMV.

21. On or about 30 July 2002, Erwin filed a petition for fee dispute resolution with the North Carolina State Bar seeking a refund of the \$100.00 paid to Lewis.

22. On or about 9 August 2002, Lewis received the "Notification of Mandatory Fee Dispute Resolution" issued regarding the fee dispute petition filed by Erwin with the North Carolina State Bar. By Bar rule, Lewis was required to respond to this letter within 15 days of receipt. Lewis did not respond to that letter.

23. On 3 September 2002, Lewis received a Letter of Notice issued by the Chair of the Grievance Committee based on Erwin's grievance and the failure to respond to the Erwin petition for fee dispute resolution. By Bar rule, the Letter of Notice required a response within 15 days of receipt. Lewis did not respond to the Letter of Notice until 8 October 2002.

24. Lewis did not offer to refund any or part of the fee paid by Erwin in her response to the Chair's Letter of Notice. Lewis has not refunded any or part of the fee to Erwin.

25. On or about 6 November 2001, one James W. Dibben (hereafter "Dibben") engaged Lewis to represent him on a speeding violation citation in Iredell County, North Carolina and paid Lewis \$100.00 to represent him. Dibben also executed a waiver of appearance authorizing Lewis to appear in court on his behalf without his presence. Lewis advised him that he did not have to appear on the court date as a result of signing the waiver.

26. Dibben's scheduled court hearing on the citation was shortly after Lewis began her medical leave of absence.

27. Neither Lewis nor anyone on Lewis' behalf communicated with Dibben after Lewis began her medical leave of absence to inform Dibben of Lewis' inability to attend the scheduled court hearing on Dibben's citation.

28. Lewis neither appeared on behalf of Dibben nor made adequate arrangements for other counsel to appear on behalf of Dibben or to have this matter continued until Lewis' return from the medical leave of absence.

29. On or about 5 December 2001, Dibben called Lewis' office to learn the status of his case. Dibben was informed that Lewis would not be available until after Christmas, but was receiving messages. No further explanation was given. Dibben requested Lewis call him. Lewis did not call.

30. On or about 7 December 2001, DMV notified Dibben that his drivers' license would be indefinitely suspended effective 5 February 2002 for failing to appear in court on the citation unless corrective action was taken.

31. Upon receipt of the letter from DMV, Dibben called Lewis' office and left a message with the answering service asking for a return call. Lewis did not call.

32. After not receiving a return call, Dibben contacted the District Attorney's office directly. His case was rescheduled as a result to 13 February 2002.

33. On or about 26 March 2002, Lewis refunded the \$100.00 fee paid by Dibben in response to a petition for fee dispute resolution filed with the North Carolina State Bar by Dibben.

34. On or about 29 October 2001, one Michael W. Adkins (hereafter "Adkins") engaged Lewis to represent him on a traffic violation citation in Catawba County, North Carolina and paid Lewis \$185.00 to represent him. Adkins also executed a waiver of appearance authorizing Lewis to appear in court on his behalf without his presence. Lewis advised him that he did not have to appear on the court date as a result of signing the waiver.

35. Adkins's scheduled court hearing on the citation was 14 November 2001, the day after Lewis began her medical leave of absence.

36. Neither Lewis nor anyone on Lewis' behalf communicated with Adkins after Lewis began her medical leave of absence to inform Adkins of Lewis' inability to attend the scheduled court hearing on Adkins's citation.

37. Lewis neither appeared on behalf of Adkins nor made adequate arrangements for other counsel to appear on behalf of Adkins or to have this matter continued until Lewis' return from the medical leave of absence.

38. During December 2001, Adkins called Lewis' office to learn the status of his case. Adkins was informed that Lewis was on vacation and would not be available until after Christmas. No further explanation was given.

39. On or about 13 December 2001, DMV notified Adkins that his drivers' license would be indefinitely suspended effective 11 February 2002 for failing to appear in court on the citation unless corrective action was taken.

40. On or about 25 February 2002, Lewis refunded the \$185.00 paid by Adkins after receiving notice of a grievance filed by Adkins with the North Carolina State Bar.

41. On or about 11 November 2001, one Tawn N. Earnest (hereafter "Earnest") engaged Lewis to represent her on a speeding violation citation in the Iredell County District Court and paid Lewis \$100.00 to represent her by money order of the same date. Earnest's court hearing was initially scheduled for 28 November 2001. Earnest also executed a waiver of appearance authorizing Lewis to appear in court on her behalf without her presence. Lewis advised her that she did not have to appear on the court date as a result of signing the waiver.

42. Lewis' office cashed Earnest's money order on or about 23 November 2001, after Lewis had begun her medical leave of absence.

43. Neither Lewis nor anyone on Lewis' behalf communicated with Earnest after Lewis began her medical leave of absence to inform Earnest of Lewis' incapacity to handle her court date on 28 November 2001.

44. Lewis neither appeared on behalf of Earnest nor made adequate arrangements for other counsel to appear on behalf of Earnest to have this matter continued until her return from the medical leave of absence.

45. After the date of the scheduled court hearing, Earnest called Lewis' office to learn the results. Earnest left at least three messages with Lewis' office. None of Earnest's calls were returned. Lewis' answering service informed Earnest that Lewis' office was closed until after Christmas. No further explanation was given.

46. Earnest then called the clerk's office and was informed that Lewis had not appeared on her behalf in court.

47. On or about 26 March 2002, Lewis refunded the \$100.00 fee to Earnest.

48. On or about 22 April 1999, one Nelly Turpin (hereafter "Turpin") engaged Lewis to represent her in a claim against a retail store arising from a fall by Turpin on an allegedly slippery floor earlier that month. Lewis accepted the case on a written contingency fee agreement.

49. Lewis did not negotiate with the store, its insurance company, or its attorneys or representatives on behalf of Turpin.

50. Lewis did not file suit on behalf of Turpin.

51. On or about 6 May 2002, about three months after returning from her medical leave of absence, Lewis wrote to Turpin, returned her file, and withdrew from the case. Lewis made a referral to another attorney. Lewis cited as a reason to withdraw that "[she did] not have the time to dedicate to your case at this time."

52. At the time Lewis withdrew from representation and returned the file to Turpin, the statute of limitations had already run on Turpin's claim. Turpin learned that she could not pursue her claim against the store after consulting with the attorney to whom Lewis referred her.

53. On or about 3 July 2002, Lewis received a Letter of Notice from the Chair of the Grievance Committee regarding the grievance filed by Turpin against her. By Bar rule, Lewis was required to respond to the Letter of Notice within 15 days of receipt. Lewis did not respond to the Letter of Notice within the 15-day period as required.

54. On or about 4 October 2001, one Ronald Ayers (hereafter "Ayers") engaged Lewis to represent him on a traffic violation citation in the Iredell County District Court and paid Lewis \$125.00 to represent him that day. Lewis rescheduled Ayers court hearing on this matter until 9 January 2002. Lewis did not appear on the rescheduled hearing date.

55. Neither Lewis nor anyone on Lewis' behalf communicated with Ayers after Lewis entered the drug rehabilitation program to inform Ayers of Lewis' incapacity to handle his court date on 9 January 2002.

56. Lewis neither appeared on behalf of Ayers nor made adequate arrangements for other counsel to appear on behalf of Ayers to have this matter continued until her return from the medical leave of absence.

57. Ayers attempted to communicate with Lewis before the scheduled court date. Lewis failed to return Ayers' calls. Ayers eventually retained other counsel to represent him.

58. On 11 April 2002, Lewis received a "Notification of Mandatory Fee Dispute Resolution" from the State Bar based on Ayers' petition for resolution of a fee dispute filed with the State Bar on 4 March 2002. By Bar rule, Lewis was required to respond within 15 days of receipt. Lewis did not respond to the notice within the 15-day period as required.

59. On or about 3 July 2002, Lewis received a Letter of Notice from the Chair of the Grievance Committee regarding the grievance filed by Ayers against her and Lewis' failure to respond to the "Notification of mandatory fee dispute resolution." By Bar rule, a response to a Letter of Notice is required within 15 days of receipt. Lewis did not respond to the Letter of Notice within the 15-day period as required.

60. Lewis has not refunded any or part of the \$125 paid to her by Ayers.

61. On or about 22 April 2002, Lewis was engaged by one Harry Bitts (hereafter "Bitts") to represent him in a motion for appropriate relief (hereafter "MAR") with respect to the setting aside of his guilty plea to a speeding violation of 70 mph in a 55 mph zone in Iredell County District Court. Bitts paid Lewis \$200.00 by credit card that day. Lewis also signed a waiver of appearance to permit Lewis to represent him without his presence that day. Lewis received the waiver of appearance on or shortly after 22 April 2002.

62. Between 22 April 2002 and late May 2002, Bitts or his wife called Lewis' office on numerous occasions to determine the status of the matter. Lewis did not return any calls until shortly before 29 May 2002. At that time, Lewis advised that she would take care of the matter on 29 May 2002.

63. Lewis did not file the MAR on behalf of Bitts at any time.

64. Bitts or his wife called Lewis' office numerous times after 29 May 2002. Lewis did not return those calls.

65. On or about 13 June 2002, Lewis received a "Notification of Mandatory Fee Dispute Resolution" from the State Bar based on Bitts' petition for resolution of a fee dispute filed with the State Bar on 10 June 2002. By Bar rule,

the notice required a response within 15 days. Lewis did not respond to the notice within the 15-day period as required.

66. On or about 14 August 2002, Lewis received a Letter of Notice from the Chair of the Grievance Committee regarding the grievance filed by Bitts against her and Lewis' failure to respond to the "Notification of Mandatory Fee Dispute Resolution." By Bar rule, a response is required to a Letter of Notice within 15 days of receipt. Lewis did not respond to the Letter of Notice within the 15-day period as required.

67. Lewis has not refunded any or part of the \$200.00 received from the Bitts.

68. On 12 September 2001, one Jennifer Stephens (hereafter "Stephens") Stephens engaged Lewis to represent her in defending a citation for a stop light violation. Stephens executed a waiver of appearance permitting Lewis to enter a plea on Stephens' behalf without her presence. On 13 September 2001, Lewis received \$185 to represent Stephens. The citation provided that Stephens' court appearance to respond to the violation was to be 18 October 2001.

69. Lewis appeared on behalf of Stephens at the initial court date and successfully moved for a continuance until 15 November 2001.

70. During Lewis' leave of absence from the practice of law, Stephens' case was continued until 26 February 2002.

71. On 26 February 2002, Lewis appeared on behalf of Stephens and had the case continued again until 14 March 2002.

72. On 14 March 2002, Lewis failed to appear in court on behalf of Stephens and the presiding judge entered an order based on the failure to appear.

73. Lewis had the failure to appear stricken and the case rescheduled for 8 May 2002.

74. Lewis failed to appear in court on behalf of Stephens on 8 May 2002.

75. In early June 2002, Stephens received a notice from the Division of Motor Vehicles dated 6 June 2002 informing her that her driver's license would be indefinitely suspended beginning 5 August 2002 for failing to appear at the 8 May 2002 hearing unless she appeared in court on the original citation before the effective date of the suspension.

76. Upon receipt of the notice from DMV, Stephens contacted the court herself and rescheduled the court date for the hearing on her traffic violation to 30 July 2002. On or about 8 July 2002, Stephens discharged Lewis by letter dated 8 July and requested a refund of the \$185.00 paid to Lewis.

77. Lewis has not refunded any or all of the \$185.00 she received from Stephens.

78. Sometime during November 2001, one Adin Begic (hereafter "Begic") engaged Lewis to represent him on a speeding violation citation in the Catawba County District Court and paid Lewis a \$300.00 to represent him. Earnest also executed a waiver of appearance authorizing Lewis to appear in court on his behalf without her presence. Lewis advised him that he did not have to appear on the court date as a result of signing the waiver.

79. Neither Lewis nor anyone on Lewis' behalf communicated with Begic after Lewis began her medical leave of absence to inform Begic of Lewis' incapacity to handle his case.

80. Lewis neither appeared on behalf of Begic nor made adequate arrangements for other counsel to appear on behalf of Begic or to have this matter continued until her return from the medical leave of absence.

81. After the date of the scheduled court hearing, Begic attempted to communicate with Lewis about the results. Begic was informed that Lewis would be out of the office until February. No further explanation was given.

82. On or about 13 February 2002, Lewis received a "Notification of Mandatory Fee Dispute Resolution" from the State Bar based on Begic's petition for resolution of a fee dispute filed with the State Bar on 13 February 2002. By Bar rule, the notice required a response within 15 days. Lewis did not respond to the notice within the 15-day period as required.

83. On or about 10 October 2002, Lewis received a Letter of Notice from the Chair of the Grievance Committee regarding the grievance filed by Begic against her and Lewis' failure to respond to the "Notification of mandatory fee dispute resolution." By Bar rule, a response is required to a Letter of Notice within 15 days of receipt. Lewis did not respond to the Letter of Notice within the 15-day period as required.

84. Lewis has not refunded any or part of the \$300.00 received from the Begic.

85. On or about 14 November 2001, one Charles W. Snow (hereafter "Snow") engaged Lewis to represent him on a traffic violation citation in the Catawba County District Court and paid Lewis \$150.00 by money order dated 14 November 2001 to represent him. Snow also executed a waiver of appearance authorizing Lewis to appear in court on his behalf without his presence. Lewis

advised him that he did not have to appear on the court date as a result of signing the waiver.

86. Lewis' office cashed Snow's money order on or about 14 November 2001, after Lewis had begun her medical leave of absence.

87. Neither Lewis nor anyone on Lewis' behalf communicated with Snow after Lewis began her medical leave of absence to inform Snow of Lewis' incapacity to handle his court date.

88. Lewis neither appeared on behalf of Snow nor made arrangements for other counsel to appear on behalf of Snow or to have this matter continued until her return from the medical leave of absence.

89. In early January 2002, Snow received a letter from DMV informing him that his license would be administratively suspended for failure to settle the traffic violation citation with the court if not resolved by 26 May 2002. Snow or his wife called Lewis' office to determine the status of his case. Lewis' answering service informed Snow that Lewis' office was closed until mid-January. No further explanation was given. None of Snow's calls were returned.

90. Snow eventually resolved the matter himself on 21 February 2001.

91. On or about 9 April 2002, Lewis received a Letter of Notice from the Chair of the Grievance Committee regarding the grievance filed by Snow against her. By Bar rule, a response is required to a Letter of Notice within 15 days of receipt. Lewis did not respond to the Letter of Notice within the 15-day period as required.

92. Lewis did refund the \$150.00 paid to her by Snow on or about 27 March 2002.

93. On or about 21 September 2001, Lewis received a Letter of Notice from the Chair of the Grievance Committee of the North Carolina State Bar with respect to a grievance filed against Lewis by Mr. and Mrs. Steve McKinnon concerning the settlement of a property damage insurance claim by Lewis on their behalf. Pursuant to the Rules and Regulations of the North Carolina State Bar, Lewis was required to respond to the Letter of Notice with a full and fair disclosure of all of the facts and circumstances with respect to the grievance within 15 days.

94. Lewis did not respond to the Letter of Notice even after requesting and receiving several extensions of time to respond through 25 February 2002.

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

### CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Committee, and the Committee has jurisdiction over the Defendant, Cecelia M. Lewis, and the subject matter of this proceeding.

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

- (a) By failing to provide the necessary legal services to represent her clients in their respective court cases in a timely manner as described in the Findings of Fact above, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 of the Revised Rules of Professional Conduct;

- (b) By failing to communicate with her clients on a timely basis concerning her inability to appear in court during her medical leave of absence in the various matters described in the Findings of Fact, Defendant failed to keep her clients reasonably informed about the status of their legal matters and failed to explain matters to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation in violation of Rules 1.4(a) and (b) of the Revised Rules of Professional Conduct;
- (c) By failing to promptly refund the unearned portion of the fees paid by her various clients after not providing the agreed upon legal services as specified in the Findings of Fact above, Defendant collected a clearly excessive fee in violation of Rule 1.5(a) of the Revised Rules of Professional Conduct and failed to refund an advance payment of a fee that was not earned upon termination of employment in violation of Rule 1.16(d) of the Revised Rules of Professional Conduct;
- (d) By failing to respond to the Bar's notices of petitions for fee dispute resolution in those matters specified in the Findings of Fact above, Defendant failed to participate in good faith with the fee dispute resolution process of the North Carolina State Bar in violation of Rule 1.5(f) of the Revised Rules of Professional Conduct;
- (e) By failing to respond to the Letters of Notice issued by the Chair of the Grievance Committee within the deadline established by the rules in those matters specified in the

Findings of Fact above, Defendant failed to timely respond to an inquiry by the Bar in violation of Rule 8.1 of the Revised Rules of Professional Conduct and N.C. Gen. Stat. § 84-28(b)(3).

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

**ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE**

1. On 10 February 2000, a consent order of discipline against Lewis was filed in which the Hearing Committee found that Lewis had not timely returned unearned fees after discharge by a client and had not timely responded to a lawful demand for information by the Bar on grievances filed against her. The facts and violations found in that proceeding are similar to the facts and violations found in this proceeding. The Hearing Committee in the prior proceeding imposed a 30-day suspension that was stayed for 1 year upon compliance with certain conditions, including completion of a law office management program. Lewis complied with the Consent Order of Discipline and the time for the stay expired without any activation of the suspension.

2. On or about 12 February 2001 the Chair of the Grievance Committee issued an Admonition to Lewis based on a finding of the Grievance Committee at its meeting on 18 January 2001 that Lewis had failed to timely respond to a lawful demand for information by the Bar on a grievance filed against her. The finding and basis for the Admonition is similar to some of the conduct of Lewis in the instant proceeding.

3. Lewis has provided the Bar with responses with respect to the matters in this instant proceeding, with the exception of the McKinnon matter, albeit well after the deadlines established by the Bar rules.

4. Lewis has drug dependency issues that have affected or impaired her ability to practice and requires treatment by physicians. Lewis has voluntarily entered into a program of treatment for her drug dependency under the supervision of the Lawyers Assistance Program (LAP).

5. Lewis has voluntarily made refunds of unearned fees to James W. Dibben, Michael W. Adkins, Tawn N. Earnest, Nelly Turpin, and Charles W. Snow.

6. Lewis has made a partial refund of \$6,000.00 of the unearned fee of \$15,000.00 to Lisa Church on behalf of her brother Brian Keith Jones.

7. Lewis has cooperated with the Bar in the resolution of this proceeding, including responses to the pending grievances, and has expressed remorse.

8. Lewis has agreed to complete restitution in full to those clients to whom she still owes refunds of unearned fees on a timely basis, including Brian Keith Jones, Pamela Erwin, Ronald Ayers, Harry Bitts, Jennifer Stephens, and Adin Begic.

9. The Bar has received no grievances of any merit against Lewis since August 2002.

10. Most of the misconduct by Lewis in the instant proceeding involves her failure to properly tend to her clients' needs while undergoing in-patient drug

dependency treatment during her medical leave of absence between November 2001 and February 2002.

11. Lewis failed to properly tend to her clients' needs on a least two occasions after returning from her medical leave of absence.

Based on the FINDINGS OF FACT and CONCLUSIONS OF LAW above and the additional FINDINGS OF FACT REGARDING DISCIPLINE, the hearing committee makes the following:

### **CONCLUSIONS WITH RESPECT TO DISCIPLINE**

1. Lewis' misconduct is aggravated by the following factor:
  - (a) There is a pattern of client neglect and failure to communicate before, during, and after Lewis' treatment for drug addiction and return from her medical leave of absence.
  - (b) There are multiple offenses involving multiple rule violations; and
  - (c) Lewis has been previously disciplined, including a stayed suspension, for conduct of a similar nature.
2. Lewis' misconduct is mitigated by the following factors:
  - (a) personal or emotional problems;
  - (b) physical or mental impairment;
  - (c) cooperative attitude toward these proceedings;
  - (d) good character and reputation;

- (e) partial restitution and efforts to rectify the consequences of her misconduct;
- (f) remorse; and
- (g) interim rehabilitation through individual treatment and counseling.

3. The aggravating factors outweigh the mitigating factors.

4. Lewis' conduct, if repeated, poses significant potential harm to future clients and the reputation of the profession and, therefore, entry of an order of discipline with a significant suspension of Lewis' law license that is stayed only as long as Lewis complies with reasonable conditions is necessary to protect the public who may be her future clients and assure that she continues with her dependency treatment program.

Based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW and the ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS WITH RESPECT TO DISCIPLINE, and based upon the consent of the parties, the Hearing Committee enters the following:

#### **ORDER OF DISCIPLINE**

1. The license of the Defendant, Cecelia M. Lewis, is hereby suspended for five years, beginning thirty (30) days from the date this Order of Discipline is served upon her. The suspension is stayed for a period of five years so long as Lewis complies with the following conditions at all times during the stay:

- a. Lewis will satisfactorily participate in the Lawyers Assistance Program (LAP) and fulfill all terms of her LAP contract during

the entire period in which her suspension is stayed, including but not limited to these specific conditions:

- i. Lewis will satisfactorily participate in and make satisfactory progress in all treatment programs or regimens recommended by her treating professionals, including all treating physicians, psychologists, psychiatrists, counselors, and other professionals associated with her treatment, during the entire period of her stayed suspension unless and until both the LAP and her treating professionals, agree to the termination of treatment on the basis of a full and complete recovery with little likelihood, in the professional opinion of the treating professionals, of relapse;
- ii. Within 15 days of the service of this Order on her, Lewis will furnish the Office of Counsel with a list of the names, titles, function, association or organization, addresses, telephone numbers, and other contact information on each and every treating professional connected with her personal treatment program;
- iii. Within 15 days of the service of this Order on her, Lewis will execute and deliver to the Office of Counsel of the North Carolina State Bar any and all necessary and appropriate releases and authorizations directing all treating psychologists and psychiatrists to immediately report any failure to follow any prescribed course of

treatment and/or counseling to the State Bar's Office of Counsel;

- iv. Within 15 days of the service of this Order on her, Lewis will execute and deliver to all treating professionals connected with her personal treatment program, with a copy to the Office of Counsel of the North Carolina State Bar, a directive instructing him or her to provide quarterly reports of Lewis' compliance with and progress in her treatment program to the State Bar's Office of Counsel. Lewis will, at all times, be responsible for seeing that these reports are provided on a timely basis and for any costs of providing these reports. These reports shall be provided no later than the fifteenth day after the end of each calendar quarter (i.e. January 15, April 15, July 15, and October 15) during each year of the stay. The directive will also instruct her treating professionals to inform the State Bar immediately if she fails to comply with any therapy or treatment recommendations. Lewis will likewise execute and deliver the same directive, with a copy to the Office of Counsel, within 15 days after any change in her treating professionals;
- v. Lewis will not change any of her treating professionals on her own initiative without first receiving approval by the LAP program, her other treating professionals, and the Office of Counsel of the North Carolina State Bar. At

least 15 days before any changes in her treating professionals, Lewis will provide the names, contact information, credentials, and reason for change, along with the acceptance of the change by the LAP program, to the Office of Counsel of the North Carolina State Bar for approval of the change, which approval will not be unreasonably withheld;

- vi. All releases and directives issued by Lewis will satisfy any requirements of any medical privacy laws, rules, or regulations, whether federal or state, and permit the Office of Counsel to directly make meaningful inquiry of the treating professional concerning the information provided to the Office of Counsel without objection by Lewis. Lewis waives any physician-patient or similar privilege of any treating professional with respect to reports and information provided to the Office of Counsel with respect to her treatment program; and
  - vii. Lewis will be solely responsible for all costs of her treatment program and all treating professionals;
- b. During the period of the stay, Lewis will treat any fee received from any client in advance of the completion of her services for that client as a security deposit against her fee and deposit such amounts into a trust account maintained by her in accordance with the Revised Rules of Professional Conduct then in effect. Lewis will withdraw her fee for each client only as earned with a full accounting to, and after receiving the informed consent

of, the client and otherwise in accordance with the Revised Rules of Professional Conduct then in effect;

- c. By the end of the stay of the order of discipline, Lewis will have refunded all unearned fees to clients identified in this Order of Discipline in the amounts shown below and provided the Office of Counsel with satisfactory evidence of payment, such as a signed receipt or cancelled check:

<i>Client</i>	<i>Amount</i>
Brian Keith Jones (Payee Lisa Church)	\$9,000.00
Pamela Erwin	\$100.00
Ronald Ayers	\$125.00
Harry Bitts	\$200.00
Jennifer Stephens	\$185.00
Adin Begic	\$300.00
<b>Total</b>	<b>\$9,910.00</b>

Lewis will agree to reaffirm these debts in any bankruptcy proceeding in which she is a debtor and will agree to pay at least one-fifth of the total due in pro-rata payments to the identified clients each year of the period this Order is stayed.

- d. During the period of the stay, Lewis will promptly refund all unearned fees to clients upon discharge or withdrawal from representation of the client;
- e. During the period of the stay, Lewis will permit random audits of her trust, business, and personal bank accounts by the North Carolina State Bar throughout the stayed suspension of her law license. Such audits will be conducted at Lewis' expense. The

North Carolina State Bar will not review any Lewis' bank account more than four times each year;

- f. No later than 1 January 2004, Lewis will contract with a licensed North Carolina attorney who maintains a private law practice in the judicial district in which Lewis maintains her primary office for her practice, other than her legal counsel in this proceeding, to serve as a practice monitor. Lewis will first secure the approval of her proposed practice monitor to the Office of Counsel of the North Carolina State Bar, which approval will not be unreasonably withheld. Lewis will personally meet with her practice monitor at least once a month throughout the stayed suspension of her law license. Lewis will keep the monitor apprised of all open and pending client matters and the status of all such matters. Within 15 days after the end of each calendar quarter (i.e., by January 15, April 15, July 15, and October 15) of each year during the stayed suspension of her law license, Lewis will deliver to the Office of the Counsel written reports signed by the practice monitor confirming that the meetings are occurring and reporting on the status of Lewis' client matters. Lewis will be solely responsible for all costs associated with the monitoring of her law practice.
- g. During the stay period, Lewis will pay all mandatory Bar dues and assessments, including State Bar and District Bar dues and Client Security Fund assessments, and will fully comply with all requirements of the State Bar Continuing Legal Education Department, and any other mandatory State Bar program that

may come into existence during her stayed suspension, on a timely basis throughout the stayed suspension of her law license.

- h. During the stay period, Lewis will keep the North Carolina State Bar Membership Department apprised of her current address, will accept all certified mail from the North Carolina State Bar, and will respond in a timely fashion to all requests for information from the North Carolina State Bar, including Letters of Notice from the Grievance Committee, letters from the Office of Counsel, and notices of mandatory fee dispute resolution requests from clients.
- i. Lewis will not violate any state or federal criminal laws during the period of the stayed suspension;
- j. Lewis will not violate any provisions of the Revised Rules of Professional Conduct during the period of her stayed suspension; and
- k. Lewis will pay all costs incurred in this proceeding, as assessed by the Secretary, within 30 days of service of the notice of costs upon her.

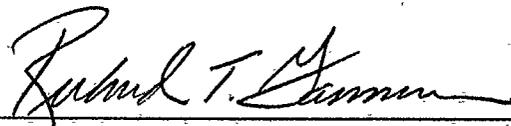
2. If, upon motion by the State Bar, a Hearing Committee of the DHC finds that Lewis has violated any of the conditions in Section 1(a)-(k) of this Order, the suspension of Lewis' license shall be activated.

3. If the suspension of Lewis' law license is activated at any time during the five-year stay period, Lewis' law license will not be reinstated until Lewis has

fully complied with the provisions of paragraphs 1(a) through (k) above and has shown her compliance with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, Sec. .0125(b) of the N.C. State Bar Discipline & Disability Rules. In addition, prior to the reinstatement of her license, Lewis shall provide written or documentary evidence from treating professionals to the Office of Counsel establishing that she is not then suffering from any mental or physical condition, including drug addiction, that significantly impairs her professional judgment, performance or competence as an attorney along with sufficient releases to permit direct, meaningful inquiry by the Office of Counsel to her treating professionals. Lewis will waive any physician-patient or similar privilege of any treating professional with respect to reports and information provided to the Office of Counsel with respect to her condition.

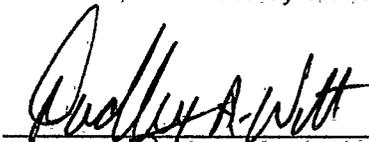
The foregoing Consent Order of Discipline of Attorney Cecelia M. Lewis is executed on behalf of the Hearing Committee by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Committee and the consent of Cecelia M. Lewis, her counsel, and counsel for the Plaintiff.

This the 7<sup>th</sup> day of January, 2004

  
\_\_\_\_\_  
, Chair  
Hearing Committee

We Consent:

  
\_\_\_\_\_  
Cecelia M. Lewis, Defendant

  
\_\_\_\_\_  
Dudley A. Witt  
Attorney for Defendant

  
\_\_\_\_\_  
David R. Johnson  
Attorney for Plaintiff