

9458

NORTH CAROLINA

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF
THE NORTH CAROLINA STATE BAR

WAKE COUNTY



The North Carolina State Bar,
Plaintiff

v.

Edward D. Seltzer, Attorney,
Defendant

Consent Order of Discipline

This matter was considered upon this proposed consent order of discipline by a hearing committee of the Disciplinary Hearing Commission composed of W. Steven Allen, Sr., Chair; Stephen E. Culbreth, and Betty Ann Knudsen. The Defendant, Edward D. Seltzer, represented himself. David R. Johnson represented the plaintiff. 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 and voluntarily 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 makes 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, Edward D. Seltzer (hereinafter Defendant), was admitted to the North Carolina State Bar on 1980, 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, Defendant was actively engaged in the practice of law in Mecklenberg County, North Carolina and maintained an office for the private practice of law in Charlotte, North Carolina.

4. On or about 13 June 2001, Defendant agreed to represent one Anthony Marra (hereafter "Marra") in an effort to have Marra's driving privileges restored by the North Carolina Department of Motor Vehicles following Marra's conviction of driving while impaired before the normal time when Marra would be eligible for restoration of his license in 2003. Marra wanted his license restored early because he was a principal in a construction business and needed to drive vehicles for the business.

5. Defendant informed Marra that he would file a motion for appropriate relief (hereafter "Motion") with respect to Marra's conviction promptly and, if successful, proceed to an administrative hearing before the DMV to restore the license. Defendant informed Marra that his fee would be \$7,500 for handling this matter.

6. Marra paid Defendant the \$7,500 fee for representation shortly after June 2001.

7. By November 2001, Defendant had not filed any motions for appropriate relief on behalf of Marra. After an exchange of emails between Marra and the Defendant, Defendant informed Marra in November 2001 that Marra needed to take certain actions to comply with the court judgment before he could file the Motion.

8. On or about 30 January 2002, Marra informed Defendant that he had complied with all of the requirements set out by Defendant in November 2001. Marra requested Defendant to proceed with filing the Motion for Appropriate Relief with the court at that time.

9. Defendant and Marra had an exchange of emails and other correspondence during February and March 2002 concerning the filing of the Motion. Marra requested Defendant give him a specific date by which Marra could expect action. Defendant repeatedly assured Marra that he would file the Motion, but would not specify any date by when he would file it.

10. By email dated 1 April 2002, Defendant informed Marra that the District Attorney had agreed to review the Motion for Appropriate Relief with Defendant in a conference. In that email, Defendant stated that he would meet with the District Attorney at some point after the 15th of April.

11. Marra sent Defendant several email messages in late April 2002 asking if he had met with the District Attorney on the 15th of April. On 18 April 2002, Defendant's assistant replied to one of Marra's emails that Defendant was working on the Motion to submit to the District Attorney. Defendant did not respond to any of the emails from Marra.

12. Defendant's assistant sent Marra an email on 2 May 2002 advising that Defendant would present the Motion to the District Attorney on 10 May 2002.

13. Defendant did not meet with the District Attorney with regard to Marra on 10 May 2002. Defendant did not inform Marra that he did not meet with the District Attorney. Marra learned that Defendant had not met with the District Attorney on or about 14 May 2002 when Defendant's assistant so informed Marra. Marra emailed Defendant on 14 May 2002 to express his dissatisfaction with Defendant's failure to meet with the District Attorney as he had been informed.

14. On 17 May 2002, Defendant's assistant replied to Marra's 14 May 2002 email and informed Marra that Defendant chose not to keep his meeting with the DA because of the "crude" language used by Marra to express his dissatisfaction with Defendant's conduct in emails from Marra on April 25 and April 30.

15. At some time between 17 May 2002 and 6 July 2002, Marra discharged Defendant and demanded a refund of the unearned fee paid in advance. Defendant refused to refund the fee.

16. On or about 6 July 2002, Marra filed a lawsuit against Defendant requesting a refund of the fee. Judgment was entered against Defendant for the full amount of \$7,500. To date, Defendant has failed to pay the judgment to Marra.

17. On or about 24 November 2000, Herman and Beverly Rush (hereafter "the Rushes") retained Defendant to investigate the circumstances under which one Carl D. Goins (hereafter "Goins") had been criminally convicted. Defendant was to report to the Rushes his assessment of Goins' innocence and an evaluation of the chances of challenging Goins' conviction by a post-conviction remedy. The Rushes paid Defendant \$1,000 as his fee.

18. In early February 2001, the Defendant met with Goins at the Pender County Correctional Facility.

19. On or about 12 March 2001, the Defendant informed the Rushes that he was satisfied that Goins was innocent and would continue to investigate the matter to determine an appropriate post-conviction proceeding for \$5,000.

20. The Rushes paid Defendant the quoted \$5,000 on or about 9 April 2001. The Rushes understood that Defendant would keep them informed of his findings.

21. The Rushes repeatedly tried to communicate with the Defendant concerning the status of Defendant's investigation over the course of the next several months, but Defendant would not return telephone calls. On or about 30 August 2001, Defendant received a letter from Beverly Rush requesting a status report. Defendant did not respond to the letter.

22. Additionally, Goins tried to communicate with the Defendant by mail from jail during the period from February 2001 through July 2001. Defendant did not reply to Goins during that period.

23. In October 2001, Goins wrote to the North Carolina State Bar and asked for assistance in getting a refund of the money the Rushes had paid to Defendant to investigate his case. As a result, a fee dispute resolution file was established.

24. A Letter of Notice was sent to the Defendant on the fee dispute pursuant to the Bar rules on 26 October 2001 by certified mail. The Letter of Notice was addressed to Defendant's address of record. By rule, the Defendant was required to respond within 15 days. The Defendant did not accept service of the letter and it was returned on or about 16 November 2001 by the United States Postal Service as "unclaimed."

25. A second letter was sent to the Defendant on the fee dispute on 15 November 2001 by certified mail. This letter referenced the first letter and asked for Defendant's response to the Letter of Notice. The Defendant received the second letter on 16 November 2001. The second letter requested a response within 10 days of receipt.

26. The Defendant did not respond to the second letter within the deadline stated. As a result, a grievance file was established by the North Carolina State Bar on 19 December 2001. Pursuant to the rules of the North Carolina State Bar, a Letter of Notice was sent to Defendant on 14 January 2002. Defendant received the

Letter of Notice on 16 January 2002. By rule, Defendant had 15 days from the date of receipt to respond to the Letter of Notice. Defendant did not respond by the rule deadline.

27. On 14 March 2002, the North Carolina State Bar issued a subpoena to Defendant to appear before the Office of Counsel on 9 April 2002 to testify with regard to the grievance to which Defendant had not responded. The subpoena was served by registered mail on 18 March 2002. Defendant submitted documents to the Bar by fax on 8 April 2002 in response to the subpoena and was excused from the subpoena.

28. The Defendant undertook no substantive action on behalf of Goins after receipt of the fee paid by the Rushes nor did he provide either Goins or the Rushes any reports, assessments, or evaluations of the viability of any legal action on behalf of Goins to overturn Goins' conviction. Defendant stopped work on behalf of Goins upon notice of the fee dispute and did not resume work. Defendant did not refund any portion of the fee paid by the Rushes.

29. At some time before 20 February 2001, Defendant agreed to investigate the possibility of a post-conviction remedy for an imprisoned criminal defendant, Willie L. Monk (hereafter "Monk"). Defendant received \$1,500 from Monk or on Monk's behalf as a fee to meet with Monk at the Caledonia Correctional Institute where Monk was incarcerated.

30. After meeting with Monk, Defendant informed Monk that he would pursue his case for an additional \$7,500 minimum fee, and agreed to have Betsy Gomez (hereafter Gomez), a friend of Monk's, pay the fee on Monk's behalf in installments of \$1,000 every two weeks. This agreement was memorialized by a letter from Defendant to Monk dated 26 February 2001.

31. Thereafter, Gomez paid Defendant at least \$925 more towards Defendant's fee.

32. On or about 21 June 2001, Defendant wrote to Monk terminating his representation. Defendant asserted that he was entitled to retain all of the amounts paid by Gomez as a fee at that time. At that point, Defendant had made no substantial efforts toward investigating Monk's case.

33. On 31 August 2001, Gomez filed a petition for fee dispute resolution with the North Carolina State Bar disputing Defendant's retention of all of the amounts paid as a fee.

34. A Letter of Notice was sent to the Defendant on the fee dispute pursuant to the Bar rules on 2 November 2001 by certified mail. By rule, the Defendant was required to respond within 15 days of receipt. Defendant received the Letter of Notice on 6 November 2001. Defendant did not respond within 15 days of receipt.

35. A second letter was sent to Defendant asking for his response to the fee dispute petition on 17 December 2001. That letter referenced the first letter and requested a response within 10 days. Defendant received that letter on 18 December 2001. Defendant did not respond to that letter within 10 days of receipt.

36. On 22 January 2002, Luella Crane of the North Carolina State Bar staff called Defendant's office and informed Defendant that the matter would be converted into a grievance if there was no response.

37. On 4 February 2002, a grievance file was established in the offices of the North Carolina State Bar. Pursuant to the rules of the North Carolina State Bar, a Letter of Notice was sent to Defendant on 13 March 2002. Defendant received the Letter of Notice on 18 March 2002. By rule, Defendant had 15 days from the date of receipt to respond to the Letter of Notice. Defendant did not respond by the rule deadline.

38. On or about 19 June 2000, Defendant agreed to represent one Stephen Ryals (hereafter "Ryals") with respect to collection of a debt for Ryals' business from a Ronnie Prophet or Prophet's business.

39. Defendant accepted a \$1,000 retainer from Ryals that was to be applied against a one-third contingency fee if Defendant was successful in recovering the debt.

40. Defendant wrote a demand letter to Prophet in June 2000 and received a reply from Prophet's counsel denying any liability in July 2000.

41. After attempting to work out a settlement with the opposing party himself, Ryals asked Defendant to proceed with filing suit against Prophet. Defendant did not take any substantive action for some period of time, finally sending an unfilled complaint to the opposing party along with another demand letter on or about 12 March 2001. Defendant did not file the Complaint with the court.

42. Ryals discharged respondent and requested a refund of the fee paid. Defendant refused to refund any amount.

43. On 22 June 2001, Ryals filed a grievance with the North Carolina State Bar. Pursuant to the rules of the North Carolina State Bar, a Letter of Notice was sent to Defendant on 17 July 2001. Defendant received the Letter of Notice on 18 July 2001. By rule, Defendant had 15 days from the date of receipt to respond to the Letter of Notice. Defendant did not respond by the rule deadline.

44. In early March 1996, Defendant agreed to represent Hanan Zaghari in to pursue a claim against Sears arising from an incident at its Eastland Mall store in which two security personnel grabbed her, handcuffed her, and accused his of being a person who had been banned from the store for shoplifting. Zaghari's husband, Ismail Zaghari, had been detained as well when he attempted to intervene. Defendant agreed to represent him as well. The incident occurred on 28 February 1996.

45. Even though Defendant knew that the statute of limitations on intentional torts was one year, Defendant made no formal claim or demand on the insurance carrier for Sears until October 1997.

46. Defendant did not inform either of the Zagharis that the statute of limitations had run on any claim they may have had based on intentional conduct. Defendant did not communicate with the Zagharis concerning the status of their claim on a regular basis and the Zagharis were unaware of any problem with their claim.

47. About two years after retaining Defendant, the Zagharis retained new counsel. After retaining new counsel, they learned that Defendant had failed to act on their behalf with respect to filing a claim based on intentional conduct before the statute of limitations ran.

48. In August 1999, the Zagharis filed a grievance with the 26th Judicial District Bar. The local grievance committee sent a Letter of Notice to Defendant dated 27 August 1999. Defendant was given 15 days to respond. Although Defendant's office was contacted repeatedly by the local committee's investigator, Defendant never responded to that Letter of Notice.

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) as follows:

(a) By failing to take any appropriate substantive action on behalf of Marra, Goins, Monk, or Zaghari on a timely basis, Defendant failed to abide by the decision of the client with respect to the objectives of the client in violation of Rule 1.2; failed to act with reasonable diligence and promptness in violation of Rule 1.3, engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d), and intentionally prejudiced or damaged his client in violation of Rule 8.4(g);

(b) By failing to file the lawsuit on behalf of Ryals in a timely manner or as directed by the client, Defendant failed to abide by the decision of the client with respect to the objectives of the client in violation of Rule 1.2; failed to act with reasonable diligence and promptness in violation of Rule 1.3, engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d), and intentionally prejudiced or damaged his client in violation of Rule 8.4(g);

(c) By failing to inform Marra, Goins, Monk, Ryals, and Zaghari that he would not take any further action on their behalf, Defendant failed to keep the client reasonably informed about the status of representation and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rules 1.4(a) and 1.4(b);

(d) By failing inform Marra, Goins, Monk, Ryals, and Zaghari that he would not take any further action on their behalf, Defendant withdrew from representation of his client without adequate grounds and without giving reasonable notice in violation of Rules 1.16(b) and (d);

(e) By informing Marra that he would be taking steps to file the Motion for Appropriate Relief in the near future, including but not limited to meeting with the District Attorney and filing the Motion, but repeatedly failing to perform those actions, Defendant engaged in conduct involving deceit, dishonesty, or misrepresentation in violation of Rule 8.4(c);

(f) By failing to refund to Marra, Goins, and Monk all or any part of the fee paid in advance upon termination of his services, Defendant collected a clearly excessive fee in violation of Rule 1.5(a) and failed to refund the amount of the advance payment of his fee that had not been earned in violation of Rule 1.16(d);

(g) By failing to respond to the grievance Letter of Notice on a timely basis with respect to Goins, Monk, and Zaghari, Defendant knowingly failed to respond to a lawful demand for information from the disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3); and

(h) By failing to respond to the Bar's request for information regarding the petition for fee dispute resolution with respect to Goins and Monk on a timely basis, Defendant failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f) and knowingly failed to respond to a lawful demand for information from the disciplinary authority in violation of Rule 8.1(b).

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

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant received an Admonition from the Grievance Committee in 1992 for neglecting a client matter, failing to communicate with a client, and failing to respond to the Bar's inquiry on a timely basis.

2. Defendant received a Reprimand from the Grievance Committee in 1994 for neglecting a client matter, failing to communicate with a client, and failing to respond to the Bar's inquiry on a timely basis.

3. Defendant received a Censure from the Grievance Committee in 1996 for neglecting a client matter and failing to communicate with a client.

4. Defendant received a second Censure from the Grievance Committee in 1996 for neglecting a client matter, failing to communicate with a client, and failing to respond to the Bar's inquiry on a timely basis.

5. Defendant received a Reprimand from the Grievance Committee in 2000 for neglecting client matter and failing to communicate with a client in three separate matters.

6. Defendant has personal problems related to depression and is seeking treatment and counseling.

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. The Defendant's conduct is aggravated by the following factors:
 - a. Multiple offenses;
 - b. Pattern of misconduct;

- c. Multiple, prior disciplinary orders involving similar conduct.
2. The Defendant's conduct is mitigated by the following factors:
 - a. Significant personal problems incident to depression during the period;
 - b. Cooperative attitude toward these proceedings; and
 - c. Remorse.
3. The aggravating factors outweigh the mitigating factors.
4. Defendant's repeated neglect of clients and the notices from the Bar poses sufficient potential harm to the public and Defendant's clients as well as the reputation of the legal profession if repeated such that it is in the interest of the public and the profession that an order of discipline suspending Defendant's law license for a significant period that is stayed as long as Defendant complies with reasonable conditions for a substantial period is necessary.

Based upon the foregoing **Findings Of Fact, Conclusions Of Law** and the **Findings Of Fact Regarding Discipline**, and with the consent of the parties, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The license of the defendant, Edward D. Seltzer, is hereby suspended for three years from the date this Order of Discipline is served upon him. The period of suspension is stayed for five years upon the following conditions:
 - a. Defendant will satisfactorily participate in the Lawyers Assistance Program (LAP) and fulfill all terms of his LAP contract during the entire period in which his suspension is stayed, including but not limited to these specific conditions:
 - i. Defendant will satisfactorily participate in and make satisfactory progress in all treatment programs or regimens recommended by his treating professionals, including all treating physicians, psychologists, psychiatrists, counselors, and other professionals associated with his treatment, during the entire period of his stayed suspension unless and until both the LAP and his 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 him, Defendant 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 his personal treatment program;
- iii. Within 15 days of the service of this Order on him, Defendant 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 him, Defendant will execute and deliver to all treating professionals connected with his personal treatment program, with a copy to the Office of Counsel of the North Carolina State Bar, a directive instructing him or his to provide quarterly reports of Defendant's compliance with and progress in his treatment program to the State Bar's Office of Counsel. Defendant 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 his treating professionals to inform the State Bar immediately if he fails to comply with any therapy or treatment recommendations. Defendant will likewise execute and deliver the same directive, with a copy to the Office of Counsel, within 15 days after any change in his treating professionals;

- v. Defendant will not change any of his treating professionals on his own initiative without first receiving approval by the LAP program, his other treating professionals, and the Office of Counsel of the North Carolina State Bar. At least 15 days before any changes in his treating professionals, Defendant 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 Defendant 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 Defendant. Defendant 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 his treatment program; and
 - vii. Defendant will be solely responsible for all costs of his treatment program and all treating professionals.
- b. Within 15 days of the service of this Order on him, Defendant will arrange for all of his mental health professionals to provide quarterly summaries of his treatment progress to the Office of Counsel of the North Carolina State Bar 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 the stay.. Defendant 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. If Defendant's treating professionals conclude that no further regular treatment is required during the period of the stay, unless a recurrence or change in condition requires, regular treatment may be stopped and further reports may be discontinued. However, Defendant's treating professional will provide the Office of Counsel of the North

Carolina State Bar with at least 15 days advance notice of the end of regular treatment and include the reasons therefore. If treatments resume during the period of the stay, then Defendant's treating professionals will notify the Office of Counsel of the North Carolina State Bar and the regular reports will resume. Defendant will also instruct his treating professionals to inform the State Bar immediately if Defendant fails to comply with any therapy or treatment recommendations;

- c. By the end of the stay of the order of discipline, Defendant 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>
Anthony Marra	\$7,500.00
Carl D. Goins (Payee Herman Rush)	\$5,000.00
Willie D. Monk	\$975.00
Stephen Ryals	\$1,000.00
Total	\$14,475.00

Defendant will agree to reaffirm these debts in any bankruptcy proceeding in which he is a debtor and will agree to pay at least one-fifth of the total due in pro-rata payments to each of the identified clients (or their designated payees) each year of the period this Order is stayed.

- d. During the period of the stay, Defendant will promptly refund all unearned fees to clients upon discharge or withdrawal from representation of the client;
- e. No later than 1 September 2004, Defendant will contract with a licensed North Carolina attorney who maintains a private law practice in the judicial district in which Defendant maintains his

primary office for his practice to serve as a practice monitor. Defendant will first secure the approval of his proposed practice monitor to the Office of Counsel of the North Carolina State Bar, which approval will not be unreasonably withheld. Defendant will personally meet with his practice monitor at least once a month throughout the stayed suspension of his law license. Defendant 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 his law license, Defendant 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 Defendant's client matters. Defendant will be solely responsible for all costs associated with the monitoring of his law practice.

- f. During the period of the stay, Defendant will keep his address of record with the North Carolina State Bar current, will accept all certified mail from the North Carolina State Bar, and will respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication.
- g. The Defendant shall not violate any state or federal laws during the period of the stayed suspension.
- h. The Defendant shall not violate any provisions of the Rules of Professional Conduct during the period of his stayed suspension;
- i. Defendant will respond to all State Bar requests for information by the deadline stated in the communication or within thirty (30) days, whichever is earlier;
- j. During the stay period, Defendant 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 his stayed

suspension, on a timely basis throughout the stayed suspension of his law license; and

- k. The Defendant shall pay all costs incurred in this proceeding, as assessed by the Secretary, within thirty (30) days of service of the notice of costs upon him.

2. If, upon motion by the State Bar, a Hearing Committee of the DHC finds that the Defendant has violated any of the conditions in Section 1(a) - (h) of this Order of Discipline, the suspension of the Defendant's license shall be activated. If the suspension is activated, prior to seeking reinstatement of his license, the Defendant must:

- a. Comply with all provisions of 27 NCAC 1B § .0125 (b) of the N.C. State Bar Discipline & Disability Rules; and
- b. Satisfy all the conditions set forth in Section 1 (a) - (h) of this Order of Discipline prior to seeking reinstatement.

3. If the suspension of Defendant's law license is activated at any time during the five-year stay period, Defendant's law license will not be reinstated until Defendant has fully complied with the provisions of paragraphs 1(a) through (l) above and has shown his 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 his license, Defendant 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 that significantly impairs his professional judgment, performance or competence as an attorney along with sufficient releases to permit direct, meaningful inquiry by the Office of Counsel to his treating professionals. Defendant 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 his condition.

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

This the 29th day of July, 2004



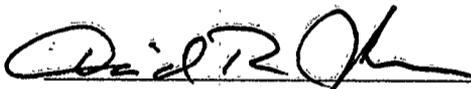
W. Steven Allen, Sr., Chair

Disciplinary Hearing Committee

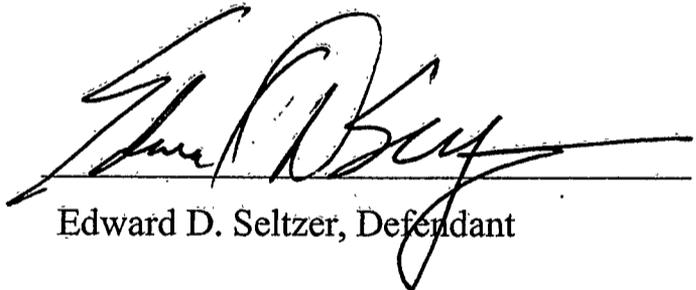
By signing below, the parties affirm their consent and agreement to the entry of the foregoing Consent Order of Discipline in 04 DHC 9:

For the Plaintiff

For the Defendant



David R. Johnson, Attorney for
Plaintiff



Edward D. Seltzer, Defendant