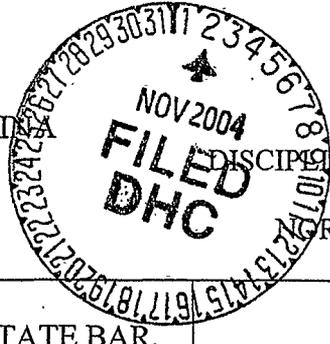


23120

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
 DISCIPLINARY HEARING COMMISSION  
 OF THE  
 NORTH CAROLINA STATE BAR  
 04 DHC 35

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

ELIZABETH KOHLER BLEVINS a.k.a.  
 ELIZABETH GAREE KOHLER, Attorney,

Defendant

FINDINGS OF FACT,  
 CONCLUSIONS OF LAW,  
 AND ORDER  
 OF DISCIPLINE

This matter was heard on the 1<sup>st</sup> day of October, 2004, before a hearing committee of the Disciplinary Hearing Commission composed of the Chair, F. Lane Williamson, and members Tommy W. Jarrett and Marguerite P. Watts, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). The plaintiff was represented by Jennifer A. Porter. The Defendant did not appear and was not represented. An Order of Default had been entered in this case on August 31, 2004 and the facts as stated in the Complaint were taken as admitted and considered as evidence by the hearing committee. Based upon the pleadings, the admissions described above and the other evidence introduced at the hearing<sup>1</sup>, 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. Defendant, Elizabeth Kohler Blevins, also known as Elizabeth Garee Kohler (hereinafter "Blevins"), was admitted to the North Carolina State Bar on August 24, 1996, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Revised Rules of Professional Conduct.

3. During all times relevant herein, Blevins actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Raleigh, Wake County, North Carolina.

4. On or about July 19, 2001, Bernadine Olive (hereinafter "Olive") hired Blevins to represent her in matters pertaining to a domestic violence order, separation, divorce, child custody and child support.

5. For a period of time in the fall of 2001, Olive did not want to move forward with her case. In or about December 2001, Olive notified Blevins that she was ready to move forward with her case. From January 2002 through May 2002, Olive tried repeatedly to contact Blevins and left numerous messages for Blevins. Blevins did not return her calls.

6. During this same time frame, Olive requested an itemized bill and an accounting for work billed against the retainer she had paid Blevins. Olive made this request several times. Blevins did not provide her with an itemized bill or any other accounting of the money Olive paid Blevins.

7. Olive requested her file in approximately July 2002. Despite repeated calls from Olive and from the State Bar, Blevins did not make a copy of Olive's file for Olive.

8. In response to Olive's request for her file and the State Bar's contact regarding providing Olive with a copy of her file, Olive instructed Carol Malcolm, a member of her staff, to falsely state that the file had been copied and given to a courier named Legal Wheels for delivery to Olive. Olive's file had not been copied and had not been given to Legal Wheels for delivery to Olive.

9. On or about March 25, 2002, Olive filed a fee dispute with the State Bar and on or about August 8, 2002, Olive filed a grievance against Blevins with the North Carolina State Bar.

10. In or about May 2002, Deborah Sandlin, an active member of the North Carolina State Bar (hereinafter "Sandlin"), began representing Ryan Wells, a client in a domestic matter. The spouse of this client, Vannessa Sakowski (hereinafter "Sakowski"), was represented by Blevins.

11. In May 2002, Sandlin spoke to Blevins and obtained an oral agreement to expedite mediation. When it appeared Blevins' client was not going to appear at the mediation, Sandlin attempted to contact Blevins. Sandlin left several messages but Blevins did not return Sandlin's calls.

12. In June 2002, Sandlin began attempting to get in touch with Blevins to schedule a deposition of Blevins' client and to discuss a trial date. Numerous messages were left with Blevins' office. Blevins did not respond to any of Sandlin's messages. Sandlin continued to try to contact Blevins in July and August and left several messages, none of which were returned by Blevins.

13. On August 15, 2002, Sandlin talked with Blevins' paralegal, Carol Malcolm, who set the deposition of Sakowski for August 29, 2002. Sandlin prepared the notice of deposition and had it hand delivered and mailed on August 15, 2002.

14. On August 28, 2002, Blevins called Sandlin and stated no attorney would be available for the deposition on August 29, 2002. Sandlin offered two alternatives, including rescheduling the deposition with Blevins paying expedited transcription costs or continuing the hearing date if Blevins' client would sign a temporary consent order granting visitation. Blevins refused these alternatives. At approximately 10:00 p.m. that night, Blevins faxed Sandlin a letter stating that she had just opened the notice of deposition that day and that neither she nor her client would be at the deposition.

15. On August 28, 2002, Blevins indicated to Sandlin that she was not the attorney for Sakowski and that her partner Mr. Bradley Tharp was. Sandlin had previously asked Tharp about this case and Tharp had indicated he did not know anything about it and that Sakowski was Blevins' client.

16. On August 29, 2002, Sandlin tried to contact Blevins regarding the deposition scheduled for that day, and at approximately 9:15 a.m. Sandlin was informed that Blevins was on her way into the office.

17. In an attempt to determine Blevins' availability for August 29, 2002, on that day Sandlin had a private detective contact Blevins' office and try to obtain an appointment with her that day. The private detective was given an appointment with Blevins on August 29, 2002 for the same time that the deposition had been scheduled.

18. Subsequently, Sandlin filed a motion to compel the deposition and a motion for attorney's fees.

19. In response to opposing counsel's motion to compel the deposition of Sakowski, Blevins falsified correspondence to opposing counsel and backdated her postage machine to falsify envelopes to create false file copies of correspondence.

20. Sandlin learned Blevins did not intend to attend the hearing on the motion to compel. Upon being informed that Blevins did not intend to attend the hearing, Sandlin issued a subpoena for her appearance, which was properly served.

21. Blevins filed a motion to continue the hearing and attached several pieces of correspondence. One of the attached documents was a letter dated August 14, 2002, which Blevins claimed to have sent to Sandlin. This letter stated that she was traveling out of town, would not be back for a week, and that no one would be available for a deposition until later. Sandlin never received this letter. Furthermore, this letter is dated the day before any deposition had been set in the case.

22. Blevins failed to appear at the hearing on the motion to compel on September 9, 2002 at 10:00 a.m. On that date, Blevins' paralegal was informed by the court that Blevins must appear on September 11, 2002 or else be arrested. Blevins appeared on September 11, 2002. She stated she had had a doctor's appointment on September 9, 2002. When asked by the court, Blevins admitted she had not tried to reschedule the appointment and had not contacted Sandlin regarding this conflict. The Court asked for supporting documentation from the doctor's office. Blevins provided documentation of a doctor's appointment at 11:30 a.m., for which she arrived at 11:00 a.m. The judge

ordered Blevins to pay all deposition costs, to conduct the deposition that day, and to pay Sandlin's attorney fees for the prosecution of the motion to compel.

23. On or about October 3, 2002, Sandlin filed a grievance against Blevins with the North Carolina State Bar.

24. On or about August 2002, Betty Ural (hereinafter "Ural") hired Blevins to represent her in a domestic matter.

25. On or about September 11 and 12, 2002, Blevins filed documents with the court in Ural's domestic matter, including a Custody Mediation Cover Sheet, a Notice to Attend Custody/Visitation Orientation with Certificate of Service, an Affidavit for Judicial Assignment with Certificate of Service, a Domestic Civil Action Cover Sheet, and a Complaint for Absolute Divorce, Custody, Motion for Emergency Ex Parte Relief, and Attorney's Fees with Certificate of Service. Blevins placed Bradley Tharp's name and/or signature block on each of these documents, and signed for him on each of these documents, without his knowledge or consent.

26. In the course of this representation, on September 13, 2002, Blevins contacted the District Court Judges office, and spoke with Judge Monica M. Bousman. She represented to Judge Bousman that an *ex parte* restraining order was needed to prevent Ural's husband from leaving the state with Ural's children. To support her request, Blevins knowingly and falsely stated that Ural's husband had not returned the children from a lunch visitation and still had the children at that time, several hours later.

27. Ural did not tell Blevins that her husband had the children or that they were overdue to be returned to her. In fact, on that date the children had attended school and YMCA programs as normal, and at the time Ural met with Blevins and Blevins spoke to Judge Bousman Ural's children were at home with her brother.

28. On Monday, September 16, 2002, Ural hired another attorney, Laura Brennan (hereinafter "Brennan") to represent her in her domestic matter. Prior to this time she had asked for an accounting of the advance fee she had deposited with Blevins for this matter. Blevins did not provide an accounting.

29. On September 17, 2002, Judge Bousman saw Blevins in court and asked Blevins if the children had been returned to Ural. Blevins stated that the order Judge Bousman signed did prevent Ural's husband from leaving with the children. ...

30. On September 19, 2002, Judge Bousman held a hearing in the Ural matter, on the *ex parte* order and on the related custody matter. During the hearing, Blevins again knowingly and falsely claimed that Ural's husband had failed to return Ural's children and that they had been overdue for several hours when she spoke to Judge Bousman and Judge Bousman entered the *ex parte* order.

31. After the hearing on September 19, 2002, Ural notified Brennan of Blevins' misrepresentations; Brennan then notified Judge Bousman.

32. On October 2, 2002, Judge Bousman reported this matter to the State Bar.
33. On or about September 17, 2002, Ural filed a fee dispute with the State Bar.
34. On or about December 14, 2001, Ms. Lisa W. Mayfield (hereinafter "Mayfield") hired Blevins to represent her concerning separation, child custody, and child support issues. Ms. Mayfield paid Blevins \$1,200.00 for these services. Over the course of the representation, Mayfield paid Blevins advance fees totaling \$6,200.00 for legal services.
35. Blevins drafted a separation agreement for Mayfield in February 2002. Blevins failed to resolve the separation, child custody, and child support issues during the course of her representation of Mayfield. Blevins failed to appear at any of the court proceedings in Mayfield's case.
36. Mayfield repeatedly left messages for Blevins. Blevins did not respond to most of the messages.
37. During the course of the representation and after consultation with Blevins, Mayfield left North Carolina with her minor children. Mayfield notified Blevins prior to leaving and upon leaving. Mayfield's departure with her minor children led to an *ex parte* order being entered against her, ordering her to bring the children back to North Carolina, and leading to child custody arrangements which were not consistent with Mayfield's wishes in the matter. Blevins did not warn Mayfield about the risks that might be associated with such a move.
38. In October 2002, Blevins ended her representation of Mayfield without having resolved the issues for which she was hired. Blevins did not refund any of the \$6,200.00 Mayfield paid her on this matter.
39. On or about March 17, 2003, Mayfield filed a grievance against Blevins with the North Carolina State Bar.
40. On or about February 27, 2002, Olivia Stovell (hereinafter "Stovell") hired Blevins to represent her in her domestic matter. At that time she paid Blevins a \$5,000.00 deposit. The contract Stovell signed stated that the deposited money would be used to pay the stated hourly rate for attorney work.
41. Blevins did not place Stovell's \$5,000.00 into any trust account for Stovell.
42. Nothing was filed in Stovell's case until June 2002. When a complaint was filed on Stovell's behalf in June 2002, it had to be returned to Blevins because she had failed to sign it. Blevins did not return it to the Court until approximately a month later, in July 2002.
43. In August 2002, Stovell asked Blevins for a copy of her file. Blevins promised to provide a copy but never did.

44. In September 2002, Stovell wrote Blevins a letter requesting information about her case. Blevins never responded to this letter.

45. In or about November 2002, Blevins was no longer working at the law firm formerly called Tharp Kohler Blevins. Blevins had not resolved Stovell's domestic matter prior to leaving the firm. Blevins did not contact Stovell to discuss this change nor to discuss the future handling of Stovell's case. Stovell has not been able to contact Blevins since November 2002.

46. On or about November 18, 2002 Stovell filed a grievance with the State Bar and on or about February 7, 2003 Stovell filed a fee dispute with the State Bar.

47. On or about June 2002 Lelia D. Pretty (hereinafter "Pretty") hired Blevins to represent her in a child support matter.

48. Pretty paid Blevins a flat fee to resolve the child support matter. Pretty's fee was collected and retained by Blevins.

49. Blevins did not resolve Pretty's case.

50. In or about November 2002 Blevins ceased practicing law with the law firm of Tharp Kohler Blevins and ceased representation of Pretty.

51. Blevins did not discuss Pretty's case with Pretty on a regular basis. Blevins did not notify Pretty of the discontinuance of her representation of Pretty.

52. Blevins did not return the unearned portion of Pretty's prepaid fee to Pretty when she ceased representation of Pretty.

53. On or about May 21, 2003, Pretty filed a grievance with the State Bar.

54. On or about November 20, 2000, Mr. and Mrs. Keith Schroeder (hereinafter "Schroeders") hired Blevins to represent them in a debt collection matter. On that date they paid her \$40.00 for a consultation fee, and \$200.00 to send a demand letter. The demand letter was sent that day. The demand letter did not resolve the matter.

55. On or about December 11, 2000, the Schroeders paid Blevins an additional \$1,500.00 to pursue litigation of the debt collection matter.

56. From December 2000 to March 2001, the Schroeders heard nothing from Blevins, despite repeated calls to the firm.

57. On or about April 11, 2001, Blevins' law partner, Bradley Tharp, filed a complaint for the Schroeders. The complaint and summons were sent to the Johnston County Sheriff's Office for service.

58. Despite repeated inquiries from the Schroeders from April 2001 through November 2001, Blevins did not communicate a correct status regarding service of the

complaint to the Schroeders and did not take any further action to pursue the Schroeders' lawsuit.

59. On or about November 29, 2001 the Schroeders discharged Blevins.

60. On or about September 17, 2002, Robert L. Fish (hereinafter "Fish") hired Blevins to represent him in a child custody and visitation matter and paid her \$3,000.

61. Blevins filed a complaint on Fish's behalf.

62. Blevins failed to notify Fish of mediation dates subsequently set in the action and failed to attend the mediations.

63. From mid October 2002 through December 2002 Fish attempted to contact Blevins and left a number of messages for Blevins. From mid October through December 2002 Blevins did not return Fish's calls.

64. In or about November 2002 Blevins ceased practicing law with the law firm of Tharp Kohler Blevins and ceased representation of Fish.

65. Blevins did not resolve the legal matter for which Fish hired her and has not refunded unearned fees.

66. On or about December 23, 2002, Fish filed a fee dispute with the State Bar. Blevins was notified of the fee dispute by certified mail through counsel Davidson on February 4, 2003. Blevins failed to respond or participate in the fee dispute program.

67. On or about December 23, 2002, Fish filed a grievance with the State Bar. On or about February 4, 2003, the Letter of Notice from the Chair of the Grievance Committee of the North Carolina State Bar regarding the grievance filed by Fish against Blevins was received by her attorney at that time, Davidson. Blevins was required to respond within fifteen (15) days of receipt pursuant to the terms of the letters of notice and Rule .0112(c) of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C. Admin. Code, 1B § .0112(c)), but failed to do so.

68. During the time of her representation of Olive, Mayfield, Stovell, Pretty, Schroeder, and Fish, Blevins was out of the office for significant periods of time for surgery, vacation, and/or family matters. Blevins did not discuss the impact of her absences on her clients' cases with her clients nor did she discuss her clients' options regarding obtaining other representation.

69. Blevins was served with notifications of fee disputes, was obligated to respond to such requests within fifteen (15) days of receipt of the requests pursuant to the terms of the notice and Rule .0112(c) of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C. Admin. Code, 1B § .0112(c)), and failed to respond or

participate in the fee dispute program as required, as follows:

FEE DISPUTE FILED BY:	DATE NOTICE SERVED ON DEFENDANT	DATE OF RESPONSE
Christopher King	November 20, 2002	No response
Bernadine Olive	December 4, 2002	No response
Amy Nelson	December 4, 2002	No response
Daniela Procacci	December 4, 2002	No response
Paul T. Sutherland	December 4, 2002	No response
Serena Crumpler	December 4, 2002	No response
Molly Emanuels	December 4, 2002	No response
Sue Ellen Butcher	December 4, 2002	No response
Justin Lieberman	December 4, 2002	No response
Hisham I. Akhal	January 15, 2003	No response
Aimee Bridges	January 15, 2003	No response
Tracy Cogswell	January 15, 2003	No response
Vernon L. Hofer	January 15, 2003	No response
Betty Ural	January 24, 2003	No response
John Gavin	January 28, 2003	No response
Elizabeth Grant	February 4, 2003	No response
Rick D. Medlin	February 5, 2003	No response
Olivia Stovell	February 11, 2003	No response
Agostinho C. Antunes	February 13, 2003	No response
Nichole J. Bennett	March 4, 2003	No response
Gary Ackley	March 10, 2003	No response

70. Blevins was served with letters of notice from the Chair of the Grievance Committee of the North Carolina State Bar requesting information, was obligated to respond to such requests within fifteen (15) days of receipt of the requests pursuant to the terms of the letters of notice and Rule .0112(c) of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C. Admin. Code, 1B § .0112(c)), but failed to do so,

as follows:

GRIEVANCE FILED BY:	DATE LETTER OF NOTICE SERVED ON DEFENDANT	DATE RESPONSE DUE FROM DEFENDANT	DATE OF RESPONSE
Bernadine Olive	November 8, 2002	November 23, 2002	No response
Deborah Sandlin	November 8, 2002	November 23, 2002	No response
Judge Monica Bousman	November 8, 2002	November 23, 2002	No response
Carol S. Malcolm & Angela Bouchard	November 8, 2002	November 23, 2002	No response
State Bar	November 8, 2002	November 23, 2002	No response
Olivia Stovell	December 17, 2002	January 1, 2003	No response
Amy Nelson	December 17, 2002	January 1, 2003	No response
Starann L. Yox	January 3, 2003	January 18, 2003	No response
State Bar	May 15, 2003	May 30, 2003	No response
Lisa Mayfield	May 28, 2003	June 12, 2003	No response
Mary E. McLean	May 28, 2003	June 12, 2003	No response
Bradley W. Carter	May 28, 2003	June 12, 2003	No response
Lelia Pretty	August 27, 2003	September 11, 2003	No response

71. Blevins was served on March 4, 2003 with a subpoena to appear and produce documents signed by the Secretary of the North Carolina State Bar regarding grievances filed by Olive Bernadine, Debbie Sandlin, Carol Malcolm, the State Bar, Yox Starann, Amy Nelsen, Olivia Stovell, Bradley Carter and Robert Fish.

72. Blevins was required by this subpoena to appear at the State Bar on March 21, 2003.

73. Blevins failed to appear as commanded by the subpoena.

74. In addition to as stated above, between 1998 and 2002 various clients paid advance fees to Blevins pursuant to contracts for representation containing language stating that the money would be used as a fund from which to pay the stated hourly rate for attorney work. Such clients include but are not limited to the following: Hisham I. Akhal, Agostinho C. Antunes, Karen Kimrey, Christopher King, Justin Lieberman, Rick D. Medlin, Daniela Procacci, Paul T. Sutherland, and Starann L. Yox.

75. Blevins failed to place these client funds into any trust account for the clients.

Based upon the foregoing Findings of Fact, the hearing committee enters the following

#### Conclusions Of Law

1. All parties are properly before the hearing committee and the committee has jurisdiction over the Defendant and the subject matter of this proceeding.
2. The Defendant's conduct, as set out in the stipulated Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §84-28(b)(2) as follows:
  - a. By failing to respond to the letters of notice issued by the Chair of the Grievance Committee within the deadline established by the rules, Defendant failed to timely respond to inquiries by the Bar in violation of Rule 8.1(b) of the Revised Rules of Professional Conduct and N.C. Gen. Stat. §84-28(b)(3);
  - b. By failing to appear in response to the State Bar's subpoena, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b) of the Revised Rules of Professional Conduct, and engaged in contempt of the State Bar in violation of N.C. Gen. Stat. § 84-28(b)(3);
  - c. By failing to deposit and maintain the money provided by clients as a deposit for attorney fees in a trust account, Blevins failed to identify, hold, and maintain client funds separate from her own and failed to promptly deposit client funds in a trust account, in violation of Rule 1.15-2(a), (b) and (n);
  - d. By failing to respond to the notices of petition for fee dispute resolution, Blevins 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);
  - e. By not withdrawing from the representation of Olive, Mayfield, Stovell, Pretty, Schroeder, and Fish when she was absent from the office for extended periods of time for medical and/or family matters while her clients cases remained unresolved, Blevins failed to withdraw from the representation of a client where her physical or mental condition materially impaired her ability to represent the client in violation of Rule 1.16(a)(3);
  - f. By failing to respond to the calls and questions of Olive, Mayfield, Stovell, Pretty, Schroeder, and Fish and by failing to discuss the effect of her absences from the office with her clients and her clients' options in light of Blevins' absences, Blevins failed to keep clients reasonably

informed about the status of her case and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a);

- g. By failing to provide requested accounting information for Olive and Ural, Blevins failed to render a written accounting of the receipts and disbursements of these trust funds to a client upon those clients' reasonable request in violation of Rule 1.15-3(d);
- h. By instructing her staff to knowingly make false statements regarding a copy of Olive's file having been made and given to a courier for delivery to Olive, Blevins engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);
- i. By producing a fabricated document as evidence in support of a motion before the Court in the Sakowski case, Blevins offered evidence she knew to be false in violation of Rule 3.3(a)(4), engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- j. By falsely telling opposing counsel in the Sakowski case that she would be unavailable for a scheduled deposition and thereby causing delay of that deposition and the case, Blevins engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);
- k. By avoiding contact with opposing counsel in the Sakowski case, by failing to follow through with an agreement to expedite mediation, by failing to make herself available for necessary proceedings such as depositions, and by failing to attend properly noticed deposition and hearing dates, Blevins engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- l. By knowingly and falsely misrepresenting facts to Judge Bousman to obtain an order for a client and by repeating the false statement at the September 19, 2002 hearing, Blevins engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 3.3(a)(1) and Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- m. By placing Bradley Tharp's name and/or signature block on pleadings filed with the court and signing for him without his consent or knowledge, Blevins engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

- n. By retaining and failing to refund any unearned portion of the fee paid to her by Mayfield, Pretty, and the Schroeders, Blevins collected a clearly excessive fee in violation of Rule 1.5 and failed to return the unearned portion of a fee in violation of Rule 1.16(d);
- o. By failing to file the appropriate documents and pursue Mayfield's separation and child custody and support issues, Blevins neglected a client matter in violation of Rule 1.3;
- p. By failing to advise Mayfield of the proper procedures for leaving the state with her minor children and of the risks involved, Blevins failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions in violation of Rule 1.4(b);
- q. By failing to file all appropriate documents and pursue Stovell's separation, divorce, and child custody and support issues, Blevins neglected a client matter in violation of Rule 1.3;
- r. By failing to deposit and maintain the money provided by Stovell for attorney fees in her domestic matter in a trust account, Blevins failed to identify, hold, and maintain Stovell's funds separate from her own and failed to promptly deposit client funds in a trust account in violation of Rule 1.15-2(a), (b) and (n);
- s. By failing to refund any of Stovell's \$5,000.00 deposit when she ceased representation of Stovell, Blevins failed to return unearned fees in violation of Rule 1.16(d);
- t. By failing to draft the documents needed to resolve Pretty's child support matter, Blevins neglected a client matter in violation of Rule 1.3;
- u. By not filing a complaint to pursue the Schroeders' debt collection matter from November 20, 2000 through April 11, 2001 and by failing to pursue the collection matter after the complaint was filed, Blevins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3; and
- v. By not appearing at Fish's mediations and failing to otherwise resolve his legal matter, Blevins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3.

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence admitted at the hearing, the hearing committee hereby makes additional

### Findings Of Fact Regarding Discipline

1. The Defendant's misconduct is aggravated by the following factors:
  - a. Dishonest or selfish motive;
  - b. A pattern of misconduct;
  - c. Multiple offenses;
  - d. Refusal to acknowledge the wrongful nature of her conduct;
  - e. Vulnerability of the victims, not only of her clients but of her clients' children who were affected by her misconduct in Defendant's family law cases as described in more detail below; and
  - f. Indifference to making restitution.
2. The Defendant's misconduct is mitigated by the following factors:
  - a. Absence of a prior disciplinary record; and
  - b. Inexperience in the practice of law.
3. The aggravating factors outweigh the mitigating factors.
4. Defendant's law practice included a significant number of family law cases. The evidence before the hearing committee showed that the children of Defendant's clients were negatively affected or at significant risk of being negatively affected by the misconduct found above, including but not limited to as follows:
  - a. Lisa Mayfield testified that she consulted with Defendant about moving out of state and asked Defendant for legal advice and help to properly move out of state with her children. Defendant failed to advise Mayfield about what was required before Mayfield moved out of state with the children and failed to file the requisite documents to obtain the requisite court orders to allow Mayfield to properly move out of state with her children. Mayfield testified about the effect Defendant's failure to advise her of requirements and proper procedure for moving out of state with her children and Defendant's failure to file the requisite documents and obtain the requisite court orders had on her children. Deborah Sandlin testified that had Mayfield not moved out of state with the children in the way that she did Mayfield most likely would have received primary physical custody of the children. Instead, because Mayfield moved out of state with the children without having first obtained the proper documents from the court, Mayfield lost physical custody of her children for a number of years.
  - b. The testimony of Judge Bousman, Laura Brennan, and Betty Ural revealed Defendant used Ural's children as a pawn to obtain a court order based upon false representations to the Court about Ural's children.

c. Bradley Tharp testified that when he took over Defendant's cases as described in further detail below, he was able to settle many cases soon after taking them over. This was consistent with other testimony at the hearing reflecting that Defendant would not typically cooperate with opposing counsel and settle cases for her clients.

5. Defendant was ordered by Judge Donald Stephens in file number 02CVS14173 to cease practicing law under the name of the firm Tharp, Kohler, Miller PLLC (d/b/a Tharp Kohler-Blevins PLLC) and not act as an agent of the firm. As a result, Defendant's representation of clients she had undertaken while with the firm ended. Defendant had taken the funds paid by the clients for the representation and did not provide those funds to the firm to fund those representations. When Defendant left the law firm, the remaining partner, Bradley Tharp, took over representation of any of Defendant's former clients who chose to have him do so, at no additional expense to those clients even though he had not received and did not have access to any of the funds these clients had given to Defendant. As a result of his representation of Defendant's former clients, Mr. Tharp has suffered severe financial hardship, has had to file bankruptcy, and has not been able to maintain his own separate practice of law.

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. Defendant's conduct has caused significant harm to the profession. Her deception to Judge Monica Bousman by telephone and in court strengthened in the mind of one client, Betty Ural, the perception that attorneys will make false statements to obtain results, a perception at odds with the Revised Rules of Professional Conduct of the North Carolina State Bar and a perception that is harmful to the profession. Her deception with her client, Bernadine Olive, regarding whether Olive's file had been copied and its location fed the stereotype that attorneys cannot be trusted. Furthermore, Defendant's conduct in failing to respond to the State Bar's letters of notices, notices of fee disputes, and subpoena jeopardized the privilege of the profession to remain self-regulating. Defendant's conduct also harmed one particular member of the profession, her former law partner Bradley Tharp, who has undertaken to represent Defendant's clients without compensation and to his significant financial detriment.

2. Defendant's conduct has caused significant harm to the administration of justice. Defendant made false statements to the Court on more than one occasion and fabricated documents that she presented to the Court. Defendant made false statements to opposing counsel and obstructed opposing counsel's attempts to depose Defendant's client, causing opposing counsel to file a Motion to Compel and taking Court time.

3. Defendant's conduct caused significant harm to her clients, as described in paragraph 4 above under the heading of Findings of Fact Regarding Discipline.

4. The hearing committee is particularly concerned by the overall pattern of misconduct, which distinguishes this case from prior cases decided by the DHC that it reviewed, none of which had the wide range and pervasiveness of misconduct that has been shown in this case.

5. The hearing committee is further concerned by the Defendant's repeated failures to respond to the Bar and by Defendant's lack of cooperation and lack of response during the this case, which indicates that imposing a discipline of suspension stayed upon compliance with conditions will not be effective in altering Defendant's conduct.

6. An order of discipline imposing discipline less than disbarment would not sufficiently protect the public for the following reasons:

a. Defendant engaged in multiple violations of the Revised Rules of Professional Conduct over a lengthy period of time, as opposed to an isolated act or mistake, and it therefore appears that her misconduct is the result of some problem, outlook, or other source that is not readily changeable;

b. Defendant has been willing to make false statements to the Court to obtain an order in a case, has been willing to make false statements to the Court and fabricate evidence which she presented to the Court to defend herself, and has been willing to make false statements to opposing counsel to avoid responsibilities in a case, which indicates a lack of integrity that is not readily changeable;

c. Defendant has failed to provide any assurances that she has addressed the problem or other source of her misconduct and therefore there is a substantial risk that her misconduct would be repeated if she is permitted to practice law;

d. Defendant's failure to respond to the State Bar repeatedly over the course of time as she received requests for information from the State Bar and during the course of these proceedings indicates that Defendant's conduct is not is not readily changeable by less severe discipline;

e. Entry of an order imposing lesser discipline would fail to acknowledge the seriousness of the offenses committed by Defendant and would send the wrong message to attorneys regarding the conduct expected of members of the Bar in this State; and

f. The protection of the public requires that Defendant not be permitted to resume the practice of law until she demonstrates that she understands her ethical obligations to her clients and demonstrates that she is not suffering from any addiction or mental illness or condition that prevents her from practicing law competently.

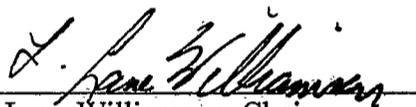
Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, the hearing committee enters the following

### Order Of Discipline

1. The Defendant, Elizabeth Kohler Blevins, also known as Elizabeth Garee Kohler, is hereby disbarred.
2. The Defendant shall pay the costs in this matter within 30 days of service upon her of a statement of the costs.

Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

This the 28<sup>th</sup> day of October 2004.

  
F. Lane Williamson, Chair  
Disciplinary Hearing Committee

<sup>1</sup> Plaintiff's counsel offered 75 exhibits for admission at the hearing. The hearing committee admitted and considered only the following exhibits:

Exhibit 1	Affidavit of Bernadine Olive
Exhibit 5	Order, Wake County District Court, 02CVD3164
Exhibit 6	Letter from Deborah Sandlin, Esq.
Exhibit 7	Affidavit of Judge Bousman
Exhibit 8	Order of Emergency Ex Parte, Wake County District Court, 02CVD12229
Exhibit 10	Complaint, Wake County District Court, 02CVD12229
Exhibit 14	Affidavit of Lisa Mayfield
Exhibit 69	Contract - Betty Ural
Exhibit 71	Litigation filed by Bradley Tharp for Judicial Dissolution of firm and injunctive relief
Exhibit 73	Transcript of September 11, 2002 session, Wake County District Court, 02CVD3164
Exhibit 74	Envelopes with handwritten note

The hearing committee received testimony from the following witnesses:

Lisa Mayfield, Bernadine Olive, Betty Ural, Judge Monica Bousman, Laura Brennan, Carol Malcolm, Deborah Sandlin, and Bradley Tharp.