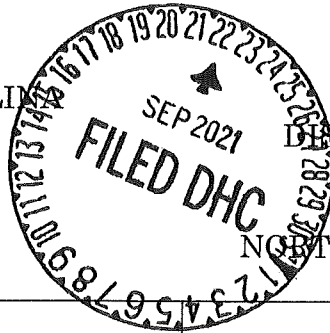


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING
COMMISSION
OF THE
NORTH CAROLINA STATE BAR
21 DHC 21

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

LLOYD T. KELSO, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Lloyd T. Kelso, was admitted to the North Carolina State Bar in 1977, 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 Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Kelso was engaged in the practice of law in Gastonia, Gaston County, North Carolina.

4. In November 2019, H.S. hired Kelso to represent her in her domestic case, which included child custody and support.

5. H.S. paid Kelso a \$2,500.00 retainer.

6. Following a December 2019 hearing in H.S.'s case, Kelso met H.S. at a restaurant.

7. While at the restaurant, Kelso flirted with H.S. and kissed her.

8. From that point forward, most of Kelso's communications with H.S. were flirtatious, romantic, or sexual.

9. Kelso proposed that he and H.S. could go on romantic trips together and mused about whether they could love each other.

10. Kelso sent H.S. graphic messages, explicit propositions, one or more semi-nude photos of himself, and at least one photograph of his genitals.

11. Kelso recognized that his desire for a sexual and romantic relationship with H.S. created a potential conflict of interest, telling H.S. that "if she felt any type of conflict existed, she should have independent legal advice at no cost to her."

12. Kelso did not obtain H.S.'s informed consent, confirmed in writing, to the potential conflict of interest created by his personal interest in pursuing a sexual and romantic relationship with her.

13. During the representation, Kelso gave H.S. \$500.00 to buy household items, permitted H.S. to use his credit card, and wrote her a check for \$8,000.00.

14. H.S. resisted Kelso's efforts to persuade her to engage in a sexual relationship, and ultimately sought other counsel to complete her case.

15. Upon receiving a report of the conduct described above, the State Bar opened grievance file no. 20G0573 and sent Kelso a Letter of Notice notifying him of the grievance and requesting a response.

16. The Letter of Notice in file no. 20G0573 also contained an allegation that Kelso lacked diligence in representing H.S.

17. To support his response to the Letter of Notice, Kelso asked the opposing counsel in H.S.'s domestic case, Sean McIlveen, to execute an affidavit rebutting the allegation that Kelso did not adequately advocate for H.S.

18. In connection with his request for an affidavit, Kelso sent McIlveen a copy of the Letter of Notice, which included all of the allegations against Kelso, including the allegation that he provided substantial financial assistance to H.S.

19. For McIlveen to provide the requested affidavit, which was limited to rebutting the allegation that Kelso did not diligently represent H.S., it was not necessary for Kelso to reveal the other information about the representation contained in the Letter of Notice.

20. Kelso's disclosure of this confidential information was adverse to H.S.'s interests: McIlveen used the information about the \$8,000.00 Kelso paid to H.S. as the basis for a motion to modify support on the grounds that H.S. had failed to disclose all of her assets.

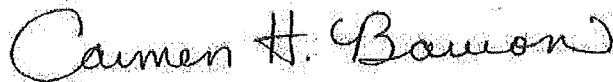
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By continuing to represent H.S. in her domestic case while also pursuing a romantic and sexual relationship with her, Defendant represented a client under circumstances where the representation might be materially limited by his personal interests in violation of Rule 1.7(a)(2);
- (b) By sending graphic messages, explicit propositions, and pictures of his naked body to H.S., Defendant attempted to engage in sexual relations with a current client in violation of Rule 8.4(a);
- (c) By giving H.S. money and allowing her to use his credit card, Defendant provided financial assistance to a client in violation of Rule 1.8(e); and
- (d) By disclosing to opposing counsel that he had given H.S. money when that disclosure was not reasonably necessary to defend against allegations that Defendant engaged in misconduct, Defendant revealed confidential client information in violation of Rule 1.6(a).

WHEREFORE, Plaintiff prays that:

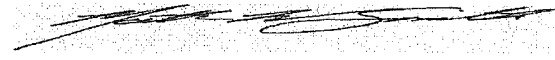
- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28 as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 22nd day of September, 2021.



Carmen Hoyme Bannon, Deputy Counsel
State Bar No. 33998
The North Carolina State Bar
P.O. Box 25908
Raleigh, NC 27611
919-828-4620
Attorney for Plaintiff

Signed pursuant to 27 N.C. Admin. Code
§ 1B.0113(m) and § 1B.0105(a)(10).



Matthew W. Smith, Chair
Grievance Committee