

STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
22 DHC 9

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

KEISCHA M. LOVELACE, Attorney,

Defendant

CONSENT
ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of James A. Davis, Chair, William A. Oden, III, and Jane B. Weathers. Kelley A. DeAngelus and J. Cameron Lee represented Plaintiff, the North Carolina State Bar. Defendant, Keischa M. Lovelace, appeared *pro se*. Defendant waives a formal hearing in this matter.

The parties stipulate and agree to the findings of fact and conclusions of law recited in this Consent Order. The parties consent to the discipline imposed by this Order. By consenting to this Order, Defendant knowingly, freely, and voluntarily waives her right to appeal this Consent Order or to challenge in any way the sufficiency of the findings.

Based upon the stipulated facts and upon the consent of the parties, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).
2. Defendant, Keischa M. Lovelace, was admitted to the North Carolina State Bar in 2002, 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. Defendant was properly served with process and this matter came before the Hearing Panel with due notice to all parties.
4. In October 2018, Defendant began representing S. Taylor-Foster in a workers' compensation claim before the North Carolina Industrial Commission.
5. At the time Defendant represented Taylor-Foster, Defendant was employed with The Richardson Firm in Fayetteville, North Carolina.
6. Taylor-Foster had two workers' compensation claims filed in 2016 and 2017. Prior to Defendant's representation, the claims were scheduled for workers' compensation hearings at least twice and subject of mediation at least once.
7. In August 2018, Taylor-Foster's claims were scheduled for a workers' compensation hearing. The hearing was continued when her prior attorney withdrew from representation.
8. On 28 August 2018, Industrial Commission Deputy Commissioner Robert J. Harris ordered Taylor-Foster to produce to him her Social Security benefits application records by 1 October 2018. Taylor-Foster was proceeding pro se at the time the Order was entered.
9. On or about 8 October 2018, Defendant received a CD from Taylor-Foster that Taylor-Foster asserted contained the Social Security records that were the subject of the 28 August 2018 order. Taylor-Foster's assertion regarding the Social Security records was disputed by opposing counsel.
10. On 18 October 2018, Defendant emailed her paralegal directing her to upload Taylor-Foster's records contained on the CD to the firm's computer system.
11. Defendant's paralegal was responsible for opening new client files which included creating the case file in the case management system, sending notice of representation to the Industrial Commission and opposing counsel and other tasks as assigned.
12. Defendant had direct supervisory authority over Defendant's paralegal's work on Defendant's cases.
13. Defendant's paralegal was out of the office from 9 October 2018 through 18 October 2018 due to medical reasons.
14. On 26 October 2018, opposing counsel forwarded Defendant a copy of an email she received from Taylor-Foster in which Taylor-Foster sent documentation of her Social Security benefits and stated that Defendant would give opposing counsel a copy of the CD containing her Social Security records.
15. On 26 October 2018, Defendant replied to opposing counsel's email stating that, "[y]es, I have the CD. My staff has uploaded the documents and will forward to you."

16. Defendant failed to ensure that the CD contents had been uploaded and were available before emailing opposing counsel on 26 October 2018.
17. Defendant's paralegal did not upload the CD contents to the firm's computer system as instructed by Defendant.
18. On 19 November 2018, opposing counsel contacted Defendant, again requesting a copy of Taylor-Foster's Social Security records.
19. Defendant did not respond to opposing counsel's 19 November 2018 request.
20. On 26 November 2018, opposing counsel contacted Defendant, again requesting Taylor-Foster's Social Security records.
21. Defendant did not respond to opposing counsel's 26 November 2018 request.
22. On 27 November 2018, opposing counsel sent Defendant an email at 10:49 a.m. and another at 3:15 p.m., respectively, again requesting Taylor-Foster's Social Security records.
23. Defendant did not respond to either of opposing counsel's 27 November 2018 emails.
24. On 28 November 2018, opposing counsel filed a Motion to Show Cause based upon Defendant's failure to produce Taylor-Foster's Social Security records.
25. On 29 November 2018, the Deputy Commissioner convened a telephone conference with Defendant and opposing counsel regarding opposing counsel's Motion to Show Cause.
26. At the conclusion of the telephone conference, the Deputy Commissioner ordered Defendant to produce Taylor-Foster's Social Security records no later than 7 December 2018.
27. Defendant did not produce the Social Security records by 7 December 2018.
28. Defendant's paralegal took vacation for approximately one month to visit family in eastern Europe. Defendant's paralegal returned to the office in January 2019.
29. While Defendant's paralegal was out of the country, Defendant could not locate Taylor-Foster's CD after instructing her paralegal to upload its contents.
30. On 13 December 2018, Defendant emailed opposing counsel stating "I am trying to locate the CD. I asked one of my assistants to upload the documents shortly after we were retained. The docs weren't uploaded and I have not been able to locate the CD. If I don't find it by tomorrow, we may have to re-order the records. Fortunately, the SSA office is across the street from our office. But, I am trying to avoid that additional expense. I will update you tomorrow afternoon."

31. Defendant did not provide opposing counsel or the Deputy Commissioner with an update regarding the status of Taylor-Foster's Social Security records.
32. In December 2018, Defendant's father was diagnosed with a terminal illness resulting in several periods of hospitalization and hospice care until his death on 31 March 2019.
33. In December 2018, another client of Defendant sustained a medical emergency resulting in emergency brain surgery and several days of ICU treatment. Additionally, Defendant was engaged in mediation of several other workers' compensation claims in November and December 2018.
34. On 8 January 2019, opposing counsel emailed the Deputy Commissioner, noting that Defendant had not produced the Social Security records, and requested that the Deputy Commissioner order Taylor-Foster to execute a release allowing opposing counsel to obtain the Social Security records.
35. In response to opposing counsel's 8 January 2019 email, the Deputy Commissioner sent an email notifying the parties that if Taylor-Foster's Social Security records were not provided by 11 January 2019, he would "have no other recourse but to dismiss both of these claims without prejudice."
36. On 8 January 2019, Defendant replied to the Deputy Commissioner's email stating: "[i]n regard to the records, we will address it by the Friday deadline. The staff person who handled the upload of [Taylor-Foster's] records into our system and handled the CD was out of the office and country in December and returned late last week. I will provide the records or update both of you by Friday."
37. Defendant did not provide opposing counsel with Taylor-Foster's Social Security records by 11 January 2019.
38. On Friday, 11 January 2019, Defendant's father was re-admitted to the hospital on an emergent basis, and eventually transferred to a rehabilitation facility.
39. On 14 January 2019, Deputy Commissioner Harris entered an Order dismissing Plaintiff's claim without prejudice, for among other reasons, failing to timely produce Taylor-Foster's Social Security records.
40. After the entry of the Order, on 14 January 2019 Defendant notified Deputy Commissioner Harris by email that her father had been readmitted to the hospital.
41. The order dismissing Taylor-Foster's case stated that Taylor-Foster could renew her claims by complying with the provisions of the Industrial Commission's 28 August 2019 order to produce her Social Security records and refiling her hearing request within one-year of the filing date of the order.

42. On 19 February 2019, Taylor-Foster emailed Defendant for an update about her case.
43. On 28 February 2019, Taylor-Foster again emailed Defendant and asked for an update about her case.
44. By email dated 1 March 2019, Defendant told Taylor-Foster that “there are not any updates” on her case, that “the defense attorney has not re-offered the settlement initially offered to you,” and that Defendant would “call [Taylor-Foster] next week to discuss next steps.”
45. Between February and March 2019, Defendant’s father’s health began to rapidly decline requiring intensive 24-hour inpatient medical treatment. Due to Defendant’s family situation, Defendant was the main point of contact for her father’s medical care.
46. Defendant left employment with The Richardson Firm on 30 June 2019. The Richardson Firm sent a letter to Taylor-Foster informing her of Defendant’s departure dated 27 June 2019.
47. After Defendant left The Richardson Firm, The Richardson Firm did not save, or archive, Defendant’s emails sent from her firm email account.

Based on the foregoing Findings of Fact and upon the consent of the parties, the Hearing Panel enters the following:

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Keischa M. Lovelace, and the subject matter.
2. Defendant’s conduct, as set forth in the Findings of Fact above, constitutes 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 failing to ensure that Defendant’s paralegal uploaded and maintained the C.D. Taylor-Foster provided that contained Social Security records, Defendant failed to make reasonable efforts to ensure that her paralegal’s conduct was compatible with the professional obligations of the lawyer in violation of Rule 5.3(b);
 - b. By failing to timely respond to communications from opposing counsel, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
 - c. By failing to inform Taylor-Foster that her workers’ compensation case had been dismissed without prejudice and that Taylor-Foster could replead her claims upon production of her Social Security records, Defendant failed to keep her client informed about the status of her case in violation of Rule 1.4(a)(3) and failed to

explain a matter to the extent reasonably necessary to permit the client to make an informed decision about her representation in violation of Rule 1.4(b); and

- d. By failing to respond to Taylor-Foster's repeated requests for case updates, Defendant failed to keep her client informed about the status of her case in violation of Rule 1.4(a)(3) and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4).

Based on the foregoing Findings of Fact and Conclusions of Law, the stipulated facts, and upon the consent of the parties, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact and conclusions of law are reincorporated as if set forth herein.
2. Defendant's failure to timely respond to requests for information from opposing counsel directly interfered with the administration of justice and harmed third parties by delaying the resolution of pending matters.
3. Defendant's failure to diligently tend to Taylor-Foster's case and failure to timely respond to requests for information from Taylor-Foster resulted in foreseeable harm to Taylor-Foster, who relied upon Defendant to protect her interests.
4. Defendant did not intend to cause harm or potential harm as a result of her conduct.
5. Defendant's conduct was not the result of a dishonest or selfish motive.
6. Defendant was forthright with the State Bar and admitted to her misconduct and the circumstances of her misconduct.
7. Defendant has accepted responsibility for her actions and expresses sincere remorse for her conduct.
8. From December 2019 through at least March 2019, Defendant's failure to timely communicate with her client and opposing counsel was due, in part, to juggling the responsibility of being the primary resource for managing her father's recent diagnosis with a rare terminal illness with her professional obligations to her clients. The stress and uncertainty of managing her father's illness significantly contributed to the misconduct at issue in this case.
9. Defendant has been licensed to practice law for 21 years and has no prior discipline.
10. Defendant has a reputation for good character within her legal community.

11. The Hearing Panel finds by clear, cogent, and convincing evidence the facts contained in the conclusions set out below of the applicable factors regarding discipline from those listed in 27 N.C. Admin. Code 1B.0116(f).

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings of Fact Regarding Discipline, the Hearing Panel enters the following:

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel carefully considered all of the different forms of discipline available to it.
2. The Hearing Panel considered all of the factors enumerated in 27 N.C. Admin Code 1B.0116(f) and concluded that Defendant's conduct did not warrant consideration of suspension or disbarment.
3. The Hearing Panel considered the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(1), which are factors warranting consideration of suspension or disbarment and concludes that although some factors are present, the particular circumstances of this case do not require suspension in order to protect the public.
4. The Hearing Panel considered the factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(2), which are factors warranting consideration of disbarment, and concluded no factors in this section of the rule are present in this case.
5. The Hearing Panel concludes that the following factors enumerated in 27 N.C. Admin. Code 1B.0116(f)(3), which are to be considered in all cases, are present in this case:
 - a. Factor (A), Absence of prior discipline;
 - b. Factor (G), Multiple offenses;
 - c. Factor (H), Effect of any personal or emotional problems on the conduct in question;
 - d. Factor (P), Remorse; and,
 - e. Factor (S), Degree of experience in the practice of law.
6. The Hearing Panel has carefully considered all the factors enumerated in 27 N.C. Admin. Code 1B.0116(f). Defendant's actions resulted in significant harm to Taylor-Foster, the legal profession and the administration of justice. However, the Hearing Panel concluded that due to Defendant's lack of prior discipline, lack of dishonest or selfish motive,

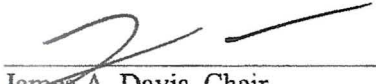
forthrightness with the State Bar, acceptance of responsibility and remorse, suspension or disbarment is not necessary to protect the public.

Based on the foregoing Findings of Fact, Conclusions of Law, additional Findings of Fact and Conclusions of Law Regarding Discipline, and with the consent of the parties, the Hearing Panel hereby enters the following:

ORDER OF DISCIPLINE


1. The Defendant, Keischa M. Lovelace, is hereby REPRIMANDED.
2. Defendant is taxed with the costs and administrative fees of this action as assessed by the Secretary which shall be paid within 30 days of service of the notice of costs upon her.

Signed by the Chair with the consent of the other Hearing Panel members, this the 19th day of December, 2022.



James A. Davis, Chair
Disciplinary Hearing Panel


WE CONSENT:



Kelley A. DeAngelus, Deputy Counsel
Attorney for Plaintiff

12/16/2022


Date



J. Cameron Lee, Deputy Counsel
Attorney for Plaintiff

12/16/2022

Date



Keischa M. Lovelace
Defendant

12/15/22

Date