

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
17 DHC 13

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

PEDRO EDUARDO KROMPECHER,
Attorney,

Defendant

CONSENT ORDER
OF
DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, Richard V. Bennett, and Bradley Lail, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Joshua Walthall represented Plaintiff, the North Carolina State Bar. Defendant, Pedro Eduardo Krompecher, was represented by Alan M. Schneider of Raleigh. Defendant waives a formal hearing in the above referenced 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. Defendant knowingly, freely and voluntarily waives his right to appeal this consent order or to challenge in any way the sufficiency of the findings by consenting to entry of this order.

Based on the foregoing and on the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

FINDINGS OF FACT

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.

2. Defendant, Pedro Eduardo Krompecher ("Defendant"), was admitted to the North Carolina State Bar on March 27, 2010, 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 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, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Raleigh, North Carolina.

4. Defendant is licensed to practice law in North Carolina.

5. Defendant is not licensed to practice law in Virginia.

6. On or around January 3, 2014, M.B., a Virginia resident, was involved in an automobile collision that occurred in Virginia.

7. M.B. asked Defendant if he could represent her in a personal injury claim arising out of the January 3, 2014 accident that occurred in Virginia.

8. In January 2014, Defendant held himself out to M.B. as able to represent her in Virginia related to M.B.'s personal injury claims arising out of the January 3, 2014 automobile collision that occurred in Virginia.

9. No portion of M.B.'s personal injury matter concerned North Carolina courts, parties, or laws.

10. In January 2014, M.B. retained Defendant to represent her in her Virginia personal injury case related to the January 3, 2014 automobile collision.

11. From January 2014 to September 2014, Defendant represented M.B. in Virginia and provided her with legal services in connection with her personal injury claims in that state.

12. Defendant sent various demand letters to Virginia medical providers on his law firm letterhead on behalf of M.B., signing them as an attorney and claiming therein to have "been retained by [M.B.]...in connection with claims related to the January 3, 2014 automobile collision."

13. Defendant negotiated M.B.'s legal rights as an attorney on her behalf in connection with her personal injury claims in Virginia.

14. Defendant charged and collected attorney's fees from M.B. for the legal services he provided to her in connection with her personal injury claims in Virginia.

15. Defendant collected and distributed funds to Virginia medical providers and M.B. using his attorney trust account in connection with M.B.'s personal injury legal claims in Virginia.

16. Code of Virginia, Article 1, Title 54.1, Subtitle IV, Chapter 39 Section 54.1-3904 indicates that any person who practices law in Virginia "without being authorized or licensed shall be guilty of a Class 1 misdemeanor."

17. The Virginia State Bar Rules of Professional Conduct permit a lawyer licensed in another state but not in Virginia to provide legal services in Virginia "on a temporary and occasional basis," provided that, among other criteria, (i) the client is informed in writing that the out-of-state lawyer is not admitted to practice law in Virginia but rather is admitted in another state, and (ii) the legal services are provided "in association with a lawyer who is admitted to practice without limitation in Virginia." Defendant did not satisfy these requirements in his representation of M.B.

18. On November 14, 2016, Defendant submitted a signed response to the State Bar's Letter of Notice and Substance of Grievance, indicating that Ed Booth ("Booth"), an actively licensed Virginia attorney, was participating in Defendant's representation of M.B.

19. While Booth did not participate in Defendant's representation of M.B., Booth did answer Defendant's questions about the substance of M.B.'s case, particularly as it concerned Virginia law.

20. Defendant's statement to the State Bar that Booth participated in Defendant's representation of M.B. should have been more specific, but it was not intended to be misleading.

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

CONCLUSIONS OF LAW

1. Attorneys may only practice law in a state or jurisdiction in which they are licensed or as permitted by that state or jurisdiction's rules regarding attorneys not licensed therein.

2. By negotiating the resolution and settlement of an auto accident claim in another state wherein Defendant was not licensed or admitted or otherwise permitted pursuant to that state's rules, Defendant engaged in the unauthorized practice of law in that state, notwithstanding the fact that he did not appear in court or file pleadings therein.

3. All parties are properly before the Hearing Panel and the Panel has jurisdiction over Defendant, Pedro Eduardo Krompecher, and over the subject matter.

4. 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 as follows:

- a) By providing legal services in a jurisdiction where he is not licensed or otherwise admitted to practice law in a manner not permitted by that jurisdiction's rules, Defendant practiced law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction in violation of Rule 5.5(a), accepted representation of a client when the representation of that client would result in a

violation of the Rules of Professional Conduct in violation of Rule 1.16(a), and committed a misdemeanor criminal offense in Virginia in violation of Rule 8.4(b);

- b) By holding himself out to M.B., M.B.'s medical providers, and the other parties involved in the automobile accident in which M.B. was involved as able to practice law in Virginia despite not being licensed or otherwise authorized to practice law therein, Defendant made misleading statements regarding the services he could provide in violation of Rule 7.1(a) and engaged in conduct involving misrepresentation in violation of Rule 8.4(c); and
- c) By charging M.B. legal fees to engage in the practice of law in Virginia despite not having a license to practice law or other authorization to provide legal services therein, Defendant charged or collected an illegal fee in violation of Rule 1.5(a).

Based upon the foregoing Findings of Fact and Conclusions of Law and the consent of the parties, the Hearing Panel hereby makes by clear, cogent and convincing evidence the following:

ADDITIONAL FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 20 above are reincorporated as if fully set forth herein.
2. By practicing law in Virginia despite not being actively licensed or otherwise authorized to provide legal services in that state, Defendant caused potential harm to his client and to the standing of the profession in the eyes of the public because it showed his lack of understanding of one of the foundational duties of an attorney – to respect and comply with the regulation of the legal profession. Such erosion of public confidence in attorneys tends to sully the reputation of, and fosters disrespect for, the profession as a whole. Confidence in the legal profession is a building block for public trust in the entire legal system.
3. Whenever attorneys engage in the unauthorized practice of law, there is the potential for significant harm to the client. Such potential significant harm ranges from inadequate representation due to unfamiliarity with the jurisdiction's practices and laws, to the improper collection of fees or other criminal activity.
4. The unauthorized practice of law also poses potential significant harm to the public and the profession, hampering the jurisdiction's ability to protect the public by regulating the practice of law in its jurisdiction.
5. Defendant has acknowledged his conduct violated the Rules of Professional Conduct from the outset of these proceedings before the DHC. Throughout these proceedings, Defendant has been particularly candid and forthright in his responses and in his admissions of wrongdoing and violations of the Rules of Professional Conduct. Defendant has demonstrated genuine remorse throughout the process and a desire to mitigate the harm caused by his actions.

6. There is no evidence that Defendant intended to harm his clients or that he exhibited a dishonest or selfish motive.

7. When Defendant represented M.B. in Virginia, he sincerely believed, albeit incorrectly, that he could negotiate the resolution of an auto accident claim in a jurisdiction where he was not licensed, in a matter that had no nexus to North Carolina, provided he did not appear in court in that jurisdiction.

8. Defendant has, of his own volition, refunded M.B. for all legal fees she paid to his firm for representing her in Virginia. Defendant has also paid to satisfy a judgment against M.B. for fees owed to a Virginia Chiropractor for services rendered to M.B. following her auto accident in Virginia.

9. Based upon Defendant's candid admissions throughout these proceedings, his remorse and efforts to rectify the effects of his actions on his client, and his demonstrated newfound understanding of the rules and statutes regarding the unauthorized practice of law, there is little likelihood that Defendant will engage in this misconduct again in the future.

10. Defendant acknowledges that he cannot practice law in any state or jurisdiction other than those in which he is licensed or admitted or otherwise permitted to provide legal services, and that, by negotiating the resolution and settlement of an auto accident claim in another state wherein he was not licensed or otherwise permitted to provide legal services, he engaged in the unauthorized practice of law in that state, notwithstanding the fact that he did not appear in court therein.

Based upon the Findings of Fact and Conclusions of Law above and the Additional Findings of Fact Regarding Discipline, and with the consent of the parties, the Hearing Panel makes the following:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0116(w)(1) and concludes that the following factors that warrant suspension or disbarment are present:

- (a) Negative impact of defendant's actions on client's or public's perception of the profession; and
- (b) Acts of misrepresentation.

2. The Hearing Panel has considered all of the factors contained in 27 N.C. Admin. Code 1B § .0116(w)(3) and concludes that the following are applicable in this matter:

- (a) Absence of prior discipline;

- (b) Absence of dishonest or selfish motive;
- (c) Defendant's full and free disclosure to the hearing panel and cooperative attitude toward the proceedings; and
- (d) Defendant's remorse.

3. Defendant caused potential harm to his client by engaging in the unauthorized practice of law in Virginia, but Defendant has mitigated this harm by refunding to her the entirety of the fee she paid to Defendant's firm.

4. The Hearing Panel has considered all lesser sanctions, including censure, reprimand and admonition, and finds that discipline less than suspension would not adequately protect the public from Defendant's future misconduct because of the gravity of potential significant harm to his clients caused by the unauthorized practice of law, nor would discipline less than a stayed suspension adequately communicate to the public and to the profession the seriousness of the misconduct as it would send the wrong message to members of the Bar and the public regarding the conduct expected of members of the Bar.

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

ORDER OF DISCIPLINE

1. Defendant, Pedro Eduardo Krompecher, is hereby SUSPENDED from the practice of law for one year, effective 30 days from service of this Order upon Defendant. This suspension is stayed immediately, as set forth in, and subject to the terms of, paragraph 3 below.

2. Defendant shall pay the administrative fees and costs of this proceeding, including the costs of all depositions, as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the costs within 90 days of service upon him of the statement of costs by the Secretary.

3. The one year suspension is stayed for a period of one year as long as Defendant complies, and continues to comply during the period of the stay, with the following conditions:

- (a) Defendant pays the administrative fees and costs of this proceeding as assessed by the Secretary of the State Bar within 90 days of service of the statement of fees and costs upon him;
- (b) Defendant completes 12 hours of continuing legal education in addition to the hours required under 27 N.C. Admin. Code Chapter 1, Subchapter D, Section .1518. These 12 hours shall consist of at least 6 hours regarding law firm

management and at least 6 hours regarding ethics. These additional hours must be completed prior to the expiration of the one-year stayed suspension period;

- (c) Defendant shall keep the State Bar Membership Department advised of his current business address. Defendant shall notify the State Bar of any change of address within ten days of such change. His current business address must be a street address, not a post office box or drawer;
- (d) Defendant shall respond to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt of such communication or by the deadline stated in the communication, whichever is sooner;
- (e) Defendant shall timely comply with all State Bar continuing legal education requirements and will pay all fees and costs assessed by the applicable deadline;
- (f) Defendant will pay all State Bar and judicial district membership dues, Client Security Fund assessments, and any other related dues, fees, and/or costs by the applicable deadline;
- (g) Defendant shall not violate any of the Rules of Professional Conduct in effect during the period of the stay; and
- (h) Defendant shall not violate any laws of the United States or of any state or local government, other than minor traffic violations, during the period of the stay.

4. Unless Defendant's obligations under this Order are modified by further order of the DHC, Defendant's obligations under this Order end one year from the effective date of the Order provided there are no motions or show cause proceedings pending alleging lack of compliance with the conditions of the stay of the suspension.

5. If Defendant fails to comply with any one or more of the conditions set out above in this Order of Discipline, then the stay of the suspension may be lifted and the suspension activated in accordance with 27 N.C. Admin. Code 1B § .0118.

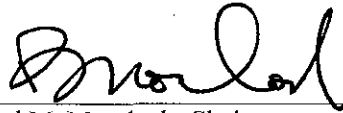
6. If the stay of the suspension is lifted and the suspension is activated for any reason, the Disciplinary Hearing Commission may enter an order imposing such conditions as it deems proper for the reinstatement of Defendant's license at the end of the suspension. Additionally, Defendant must establish the following by clear, cogent and convincing evidence prior to being reinstated to the practice of law after any period of active suspension:

- (a) That Defendant submitted his law license and membership card to the Secretary of the State Bar within thirty days of the date of the order lifting the stay and/or activating the suspension of his law license;

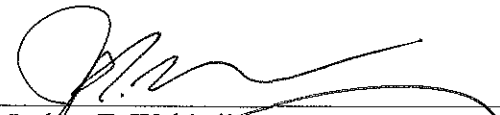
- (b) That Defendant complied with the provisions of 27 N.C. Admin. Code 1B § .0128 following entry of the order lifting the stay and/or activating the suspension of his law license;
- (c) That Defendant timely paid all administrative fees and costs assessed against him in this proceeding as reflected on the statement of costs served upon him by the Secretary of the State Bar;
- (d) That within 15 days of the effective date of the order activating the suspension, Defendant provided the State Bar with an address and telephone number at which clients seeking return of files could communicate with Defendant to obtain such files;
- (e) That Defendant provided, within 10 days, client files to all clients who made a request for return of their files;
- (f) That Defendant kept the State Bar Membership Department advised of his current business street addresses (not post office box or drawer addresses) and notified the State Bar of any change in address within ten days of such change;
- (g) That Defendant responded to all communications from the State Bar, including communications from the Attorney Client Assistance Program, within thirty days of receipt or by the deadline stated in the communication, whichever is sooner;
- (h) That, at the time of his petition for reinstatement, Defendant is current in payment of all membership dues, fees and costs, including all Client Security Fund assessments, and other charges or surcharges the State Bar is authorized to collect from him, including all judicial district dues and assessments;
- (i) That, at the time of his petition for reinstatement, there is no deficit in Defendant's completion of mandatory CLE hours in reporting of such hours or in payment of any fees associated with attendance at CLE programs;
- (j) That, at the time of his petition for reinstatement, there is no deficit in Defendant's completion of the additional mandatory CLE hours required in this Order in reporting of such hours or in payment of any fees associated with attendance at such CLE programs;
- (k) That Defendant did not violate any of the Rules of Professional Conduct in effect during the period of the suspension; and
- (l) That Defendant did not violate the laws of the United States, or the laws of any state or local government, other than minor traffic violations, during the period of the suspension.

7. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code 1B § .0118 of the North Carolina State Bar Discipline and Disability Rules until all conditions of the stay of suspension are satisfied.

Signed by the Chair with the consent of the other Hearing Panel members this
the 16th day of October, 2017.



Fred M. Morelock, Chair
Disciplinary Hearing Panel



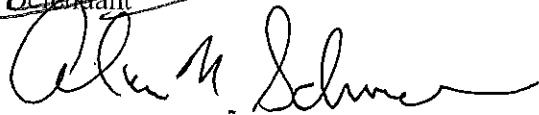
Joshua T. Walthall
Attorney for Plaintiff

10/9/17
Date



Pedro Eduardo Krompacher
Defendant

10/2/2017
Date



Alan M. Schneider
Attorney for Defendant

10-9-2017
Date