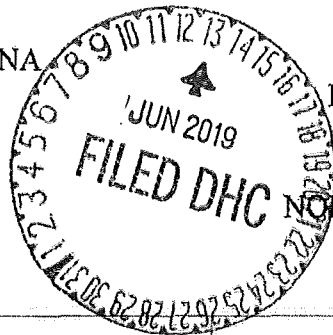


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING
 COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 18 DHC 40

THE NORTH CAROLINA STATE BAR,
 Plaintiff

v.

KEITH C. BOOKER, Attorney,
 Defendant

CONSENT

ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Donald C. Prentiss, Chair, Richard V. Bennett, and Cindy L. Marrelli pursuant to 27 N.C. Admin. Code 1B § .0115(i). Plaintiff, the North Carolina State Bar, was represented by A. Root Edmonson. Defendant, Keith C. Booker appeared *pro se*. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the entry of this order and to the discipline imposed. Defendant waives any right to appeal this consent order or to challenge in any way the sufficiency of the findings.

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

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereafter "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, Keith C. Booker (hereafter "Defendant" or "Booker"), was admitted to the North Carolina State Bar on 24 August 1996, 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. On 3 June 2016, the Disciplinary Hearing Commission entered a Consent Order of Discipline in *N.C.S.B. v. Keith C. Booker*, 16 DHC 10 in which Booker's North Carolina law license was suspended for five years. During the period of June 9, 2016 through July 9, 2016, Booker was required to comply with the wind-down provisions contained in Rule .0124¹ of the North Carolina Discipline and Disability Rules, 27 N.C. Admin Code 1B § .0124.

¹ Now codified as 27 N.C. Admin Code 1B § .0128

4. Booker was actively engaged in the practice of law in China Grove, Rowan County, North Carolina, during the relevant period referred to herein, until 9 July 2016 when the five year active suspension of his North Carolina law license became effective pursuant to the Consent Order of Discipline in 16 DHC 10.

5. Prior to February 2016, P. Sech retained Booker for representation in a custody matter.

6. By February 2016, Sech paid Booker \$1,500.00 for the representation.

7. Booker was subsequently suspended from the practice of law.

8. Before Booker was suspended from the practice of law, he did research on Sech's matter and made efforts to communicate with Sech's ex-spouse at the address Sech had provided to Booker.

9. After Booker was suspended, Sech sought return of his client file.

10. Booker attempted to comply with Sech's request to return his client file.

11. At the time of his suspension, Booker had not earned all of the fee paid by Sech.

12. Booker did not communicate with Sech about the unearned portion of the fee or make a refund to Sech during the winding down of his practice.

13. On or about 3 November 2016, Sech filed a Petition for Resolution of Disputed Fee.

14. In response to the notice of the fee dispute, Booker agreed to provide Sech with a cashier's check in the amount of \$1,500.00 on or before December 31, 2016.

15. Booker failed to refund the unearned fee to Sech as he had agreed.

16. Booker finally refunded the fee to Sech by December 2017.

17. On May 13, 2016, S. McLeod was cited for speeding in Cabarrus County.

18. McLeod filed a grievance against Booker that became file no. 17G0167, in which she claimed she had retained Booker to represent her for the May 13, 2016 speeding ticket.

19. On 1 May 2017, Booker was served with a Letter of Notice in grievance file no. 17G0167.

20. The Letter of Notice notified Booker that he was required by 27 N.C. Admin. Code 1B § .0112(c) to provide a written response to the Letter of Notice within 15 days of service of the Letter of Notice upon him.

21. Booker failed to provide a response to the Letter of Notice for grievance file no. 17G0167 as required under Rule .0112(c) of the Discipline and Disability Rules, despite service

upon him of the Letter of Notice and despite the State Bar sending him a subsequent letter notifying him that he had not responded.

22. Discovery conducted during the litigation of this case showed that Booker did not engage in misconduct in the C. Harris matter as alleged in the complaint. The med-pay check did not come into Booker's possession.

23. S. McLeod and A. Medlin had promised to provide evidence to the State Bar consistent with their claims that Booker accepted new matters during or after his wind down period from his suspension. Neither S. McLeod nor A. Medlin provided documentary evidence to the State Bar, nor did the discovery conducted in this case produce any additional evidence supporting their claims.

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

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Disciplinary Hearing Commission has jurisdiction over Defendant, Keith C. Booker, and over the subject matter of this proceeding.

2. 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) in that Defendant violated the Rules of Professional Conduct in effect at the time of his actions as follows:

(a) by failing to communicate with Sech about the unearned portion of his fee and to promptly make the refund as he had promised to do, Booker failed to take steps to the extent reasonably practicable to protect the client's interest upon termination of the representation in violation of Rule 1.16(d);

(b) by failing to respond to the Letter of Notice in the McLeod grievance file no. 17G0167, Booker knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

3. No rule violations are found for any conduct pertaining to the C. Harris matter, the A. Medlin matter, or the S. McLeod matter.

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

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Had Booker responded to the Letter of Notice in the S. McLeod matter, it may have prevented allegations being made that proved not to be supported by evidence.

2. Discovery and subsequent interviews with Sech showed that Booker provided Sech with meaningful legal services prior to his suspension.

3. While this case was pending, Booker sent Sech's file to Sech at an address provided by Sech to the State Bar.

4. Booker's failure to make the refund to Sech by the date he promised to make the refund was caused by a change in financial circumstances rather than indifference to the obligation.

5. As a result of the Complaint being filed against him in this matter, Booker lost his job.

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

ADDITIONAL CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in Rule .0116(f) of the Discipline and Disability Rules of the State Bar, 27 N.C. Admin. Code 1B § .0116(f).

2. The Hearing Panel has carefully considered all of the factors enumerated in Rules .0116(f)(1) and (2) and concludes that none of the factors requiring consideration of suspension or disbarment are present in this case.

3. The Hearing Panel has carefully considered all of the factors enumerated in Rule .0116(f)(3) and determines that the following factors are applicable:

- (a) Prior discipline;
- (b) Multiple offenses;
- (c) Experience in the practice of law;
- (d) Absence of a dishonest or selfish motive;
- (e) Cooperative attitude toward the proceedings; and
- (f) Imposition of other penalty or sanction in the loss of a job.

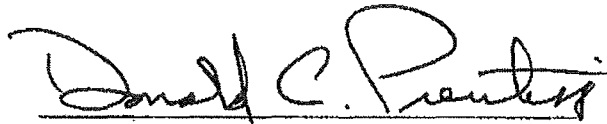
4. The Hearing Panel considered admonition, reprimand and censure as potential discipline and finds that a reprimand is appropriate because the delay in Sech's refund caused harm or potential harm to Sech and the failure to respond to the McLeod Letter of Notice caused harm or potential harm to the attorney regulatory process.

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

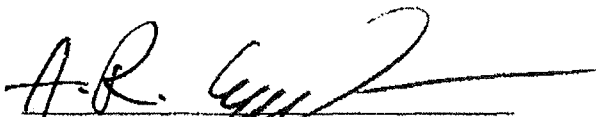
ORDER OF DISCIPLINE.

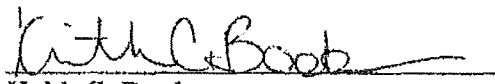
1. Defendant, Keith C. Booker, is hereby Reprimanded for his conduct.
2. Booker is taxed with the costs and administrative fees as assessed by the Clerk.

Signed by the Chair with the consent of the other Hearing Panel members, this the 13 day of June 2019.


Donald C. Prentiss, Chair
Disciplinary Hearing Panel

CONSENTED TO BY:


A. Root Edmonson
Deputy Counsel
NC State Bar


Keith C. Booker
Defendant