

NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
95 DHC 15

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

PETER K. GEMBORYS, ATTORNEY  
Defendant

14108

CONSENT ORDER OF  
DISCIPLINE

This matter, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission pursuant to Section 14(8) of Article IX of the Discipline and Disbarment Procedures of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter; and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this Consent Order and to discipline imposed, the Hearing Committee therefore 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. The Defendant, Peter K. Gemborys, was admitted to the North Carolina State Bar on August 1987, and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, 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. During all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in North Carolina.

4. Gemborys placed an advertisement for an attorney referral service with the name "Social Security Attorney Referral Service" in several telephone directories for 1993 and 1994.

5. Gemborys' law firm, Gemborys & Gibbs, which consisted of Gemborys and his wife, was the only participant in the referral service.

6. All persons who contacted the referral service were referred to Gemborys for representation in social security disability matters.

7. Ethics Opinion 94 dated July 13, 1990 states that a private lawyer referral service must have more than one participating lawyer because implicit in the concept of a referral service is the participation of more than one attorney.

8. On or about August 20, 1990, Gemborys began representing Mr. Forest L. Bell regarding Bell's claim for workers' compensation benefits.

9. On or about January 11, 1994, Bell sent Gemborys notification that he was discharging Gemborys as his attorney.

10. On February 4, 1994, a claims examiner from the Industrial Commission copied Gemborys with a letter to Alice Tramonte, Esq., indicating that Tramonte could not enter an appearance as Bell's attorney until Gemborys withdrew from representing Bell.

11. The Industrial Commission's claims examiner also advised Gemborys on or about January 21, 1994 that he should file a motion to withdraw pursuant to Bell's request.

12. Gemborys did not withdraw from his representation of Bell until the Industrial Commission issued an order requiring him to withdraw.

Based upon the consent of the parties and the foregoing Findings of Fact, the Committee makes the following:

#### CONCLUSIONS OF LAW

1. By operating a lawyer referral service when his firm was the only participant, Gemborys engaged in misleading communications in violation of Rule 2.1(a) of the Rules of Professional Conduct.

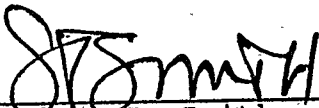
2. By failing to withdraw from representing Bell in Bell's claim for workers' compensation benefits when directed to do so by his client, Gemborys failed to withdraw from a case where he was discharged by his client in violation of Rule 2.8(b)(4).

Based upon the consent of the parties and the foregoing Findings of Fact and Conclusions of Law, the Committee hereby enters the following:

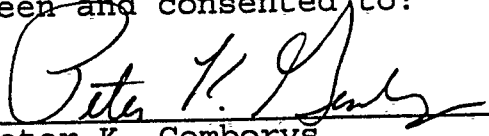
ORDER OF DISCIPLINE

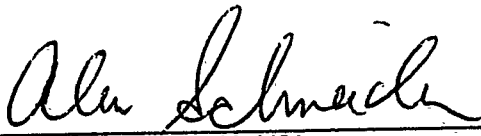
1. The defendant, Peter K. Gemborys, is hereby censured.
2. The defendant shall pay the costs of this proceeding.


This the 23 day of October, 1995.

  
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Stephen T. Smith, Chair  
Disciplinary Hearing Committee

Seen and consented to:

  
\_\_\_\_\_  
Peter K. Gemborys  
Defendant

  
\_\_\_\_\_  
Alan M. Schneider  
Attorney for the Defendant

  
\_\_\_\_\_  
Harriet P. Tharrington  
Attorney for Plaintiff