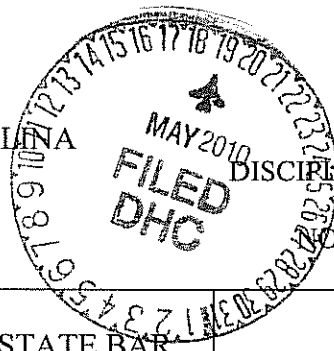


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 07

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

SHARYL Y. MASON-WATSON,
Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
CONSENT ORDER OF DISCIPLINE

THIS MATTER was considered by a hearing panel of the Disciplinary Hearing Commission composed of Tommy W. Jarrett, Chair, Robert F. Siler and Johnny A. Freeman pursuant to 27 N.C.A.C. 1B § .0114 of the Rules and Regulations of the North Carolina State Bar. Plaintiff, the North Carolina State Bar, was represented by Brian P.D. Oten. Defendant, Sharyl Y. Mason-Watson was represented by Geoffrey H. Simmons. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the findings of fact and conclusions of law recited in this order and to the discipline imposed. By consenting to the entry of this order, Defendant waives any right to appeal this consent order or to challenge it in any way.

Based 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 (“Plaintiff” or “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, Sharyl Y. Mason-Watson (“Defendant” or “Mason-Watson”), was admitted to the North Carolina State Bar on March 21, 1992, 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 or part of the relevant periods referred to herein, Mason-Watson was engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. Defendant was properly served with process and received due notice of the scheduled hearing in this matter.

5. In June 2000, Defendant was appointed guardian *ad litem* to represent the unknown heirs of John J. Ellison ("Mr. Ellison") in a highway condemnation case in Mecklenburg County, case no. 98 CVS 15879.

6. Prior to identifying and locating any heirs, Defendant negotiated a settlement for the sale of the land in the amount of \$25,550.00.

7. On or about October 4, 2001, a consent judgment in case no. 98 CVS 15879 was filed with the Mecklenburg County Superior Court evidencing the aforementioned settlement agreement.

8. On or about October 19, 2001, Defendant received the settlement proceeds from the Mecklenburg County Clerk of Court in the amount of \$25,549.05 ("the settlement proceeds").

9. On or about November 14, 2001, Defendant deposited the settlement proceeds into her trust account.

10. After negotiating the settlement, Defendant identified and located two heirs to Mr. Ellison's property: Herman Washington ("Mr. Washington") and Annie Branham ("Ms. Branham").

11. In July 2001, Defendant's former law partner met with Mr. Washington on Defendant's behalf to discuss his contributions to the property and determine his share of the settlement proceeds.

12. In January 2002, Defendant met with Ms. Branham to discuss her contributions to the property and determine her share of the settlement proceeds.

13. After the July 2001 and January 2002 meetings with Mr. Washington and Ms. Branham, respectively, Defendant made no effort to contact Mr. Washington or Ms. Branham and failed to disburse the settlement proceeds to Mr. Washington or Ms. Branham until June 2009.

14. In or around October 2008, Mr. Washington's daughter, Mary Hill, discovered a consent judgment had been entered in case no. 98 CVS 15879 and further that the settlement proceeds had been delivered to Defendant in October 2001.

15. On October 9, 2008, Mary Hill filed a grievance with the North Carolina State Bar against Defendant on her father's behalf for Defendant's failure to communicate with Mr. Washington and Ms. Branham and for Defendant's failure to distribute the settlement proceeds in a timely manner. The grievance was assigned file no. 08G1254.

16. On or about December 8, 2008, the State Bar sent a Letter of Notice to Defendant by certified mail regarding grievance no. 08G1254. Defendant accepted service of this Letter of Notice on December 12, 2008.

17. On or about June 16, 2009, Defendant filed a "Petition for Disbursement of Trust Funds and Payment of Fees of Guardian Ad Litem" with the Mecklenburg County Superior Court in case no. 98 CVS 15879.

18. By Order dated June 26, 2009, a Mecklenburg County Superior Court Judge instructed Defendant to distribute the settlement proceeds to Mr. Washington and Ms. Branham in case no. 98 CVS 15879.

19. On or about June 29, 2009, Defendant distributed the settlement proceeds to Mr. Ellison's heirs by issuing from her trust account check numbers 3823 and 3824 to Mr. Washington and Ms. Branham, respectively, in the amount ordered by the Court.

20. By letter dated June 18, 2009, the State Bar asked Defendant to provide further information about her representation of Mr. Ellison's heirs.

21. Defendant did not fully and timely respond to the State Bar's June 18, 2009 inquiry.

22. On October 22, 2009, Defendant appeared at the State Bar pursuant to a subpoena and provided a response to the State Bar's June 18, 2009 inquiry.

23. During its investigation of grievance file no. 08G1254, the State Bar conducted an audit of Defendant's general trust account and found no evidence of misappropriation by Defendant. However, between November 2001 and June 2009, Defendant did not perform monthly or quarterly reconciliations of her trust account and did not maintain proper client ledgers which adequately tracked the deposit and withdrawal of clients' funds in her trust account.

Based upon the foregoing Findings of Fact, the panel enters the following

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Sharyl Y. Mason-Watson, and the subject matter of this proceeding.

2. Mason-Watson'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) and 84-28(b)(3) as follows:

- (a) By failing to disburse the settlement proceeds to her clients over the span of nearly eight (8) years, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to promptly pay or deliver entrusted property belonging to her client in violation of Rule 1.15-2(m);

- (b) By failing to communicate with Mr. Washington and/or Ms. Branham for a period of nearly eight (8) years, Defendant failed to keep her clients reasonably informed about the status of a matter in violation of Rule 1.4(a)(3);
- (c) By failing to timely respond to the State Bar's June 18, 2009 inquiry, Defendant failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b); and
- (d) By failing to maintain proper client ledgers and perform monthly and quarterly reconciliations of her trust account, Defendant failed to adequately monitor and maintain her trust account in violation of Rules 1.15-3(b)(2), (3), and (5), as well as Rule 1.15-3(d)(1) and (2).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the consent of the parties, the hearing panel also finds by clear, cogent, and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant has substantial experience in the practice of law.
2. Defendant's conduct caused significant harm to her clients in that Mr. Washington and Ms. Branham were unnecessarily deprived of their respective shares of the settlement proceeds for a period of nearly eight years. Defendant's conduct impaired Mr. Washington's and Ms. Branham's ability to enjoy the benefit of this sale of land to which they were entitled.
3. Defendant's neglect of this matter has the potential to cause significant harm to the standing of the profession in the eyes of the public because it shows her disregard for her duties as an attorney. 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.
4. Between 2001 and 2009, Defendant experienced a number of personal tragedies resulting from health complications for herself and among her family members. These numerous incidents distracted Defendant from her law practice and weighed heavily on Defendant's emotional and mental state to the detriment of her clients and her law practice.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel also enters the following

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 carefully considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds the following factors are applicable in this matter:

- (a) The effect Defendant's personal or emotional problems had on the conduct in question; and
- (b) Defendant's substantial experience in the practice of law.

2. The hearing panel has considered admonition, reprimand, and censure as potential discipline but finds that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of harm to clients in the present case. Furthermore, the panel finds that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

3. The hearing panel has also carefully considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and finds the following factors warrant suspension of Defendant's license:

- (a) Negative impact of Defendant's actions on client's or public's perception of the profession; and
- (b) Impairment of the client's ability to achieve the goals of the representation.

4. Due to the nature and extent of Defendant's conduct and in the interest of protecting the public, this panel would impose an active suspension of Defendant's license to practice law if it were not for Defendant's explanation of her difficult personal circumstances combined with her efforts to take the necessary steps to disburse her clients' funds after the State Bar informed her of the present complaint. Accordingly, the hearing panel finds and concludes that the public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant designed to ensure protection of the public and continued compliance with the Rules of Professional Conduct.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings Regarding Discipline, the hearing panel enters the following

ORDER OF DISCIPLINE

1. Defendant's license to practice law in the State of North Carolina is hereby suspended for two years.
2. The period of suspension is stayed for three years upon Defendant's compliance with the following conditions:
 - (a) Defendant shall complete twelve (12) hours of continuing legal education in the area of trust account management approved in advance by the Office of Counsel of the North Carolina State Bar within the first year of the stayed period of suspension. These twelve hours are in addition to the continuing legal education requirements contained in 27 N.C.A.C. 1D § .1518;

- (b) Defendant shall, at her sole expense, retain a certified public accountant who shall provide semi-annual written reports to the State Bar confirming that Defendant's trust account(s) complies with all applicable provisions of the Rules of Professional Conduct. The reports shall be received by the Office of Counsel each July 1 and January 1 for the duration of any stay of this suspension;
- (c) Defendant shall, at her sole expense, arrange for a member of the North Carolina State Bar to serve as her law practice monitor. Defendant shall first secure the approval of her proposed practice monitor from the Office of Counsel of the North Carolina State Bar, which approval will not be unreasonably withheld. The selected monitor must be an active member of the North Carolina State Bar in good standing who practices law in the judicial district in which Defendant maintains her primary law office. The selected monitor cannot be her legal counsel in this proceeding. The selected monitor must agree to so serve and agree to meet with Defendant at least monthly to review Defendant's cases. The monitor will supervise all client matters and will ensure Defendant is, among other duties, handling all client matters in a timely fashion, responding promptly to her clients, and maintaining her trust account records as required by the Rules of Professional Conduct. Defendant shall ensure the monitor submits written quarterly reports of this supervision to the Office of Counsel of the State Bar; such reports shall be due on the following dates as they occur during the stayed suspension: January 15, April 15, July 15, and October 15. This monitoring will occur for the duration of any stay of this suspension. Within ninety (90) days from service of this Order on Defendant, Defendant must make the arrangements for this monitoring attorney and supply the Office of Counsel of the State Bar with a letter from the monitoring attorney confirming his or her agreement to perform the duties listed above;
- (d) Defendant shall meet at least once a month with her monitoring attorney, to whom she will report the status of all current client matters, cooperate with the monitoring attorney and provide any information the monitoring attorney deems reasonably necessary to ensure Defendant is, among other duties, handling all client matters in a timely fashion, responding promptly to her clients, and maintaining her trust account records as required by the Rules of Professional Conduct;
- (e) Defendant shall timely arrange for an alternate monitoring attorney in accordance with the procedure set forth in paragraph 2(c) above if needed during the stay of this suspension;
- (f) No later than sixty (60) days from service of this Order on Defendant, Defendant shall be evaluated at her own expense by a licensed and qualified psychiatrist, psychologist, or similar mental health professional approved by the Office of Counsel of the State Bar for the purpose of determining whether Defendant has any current mental or psychological impairment that would affect Defendant's ability to practice law and comply with the Rules of

Professional Conduct or cause harm to the public by continuing to practice law. No later than sixty (60) days from service of this Order on Defendant, Defendant will also sign an authorization form consenting to the release of medical records and information from the evaluating mental health professional to the Office of Counsel of the State Bar and will not revoke that release. Defendant will ensure that the evaluating mental health professional, at Defendant's own expense, provides a written report of such evaluation and recommended treatment, if any, to the Office of Counsel within thirty (30) days of the evaluation taking place;

- (g) Defendant shall comply with all treatment, if any, prescribed by the evaluating mental health professional. If any such treatment is recommended, prior to her first appointment with any treating mental health professional Defendant will sign an authorization form consenting to the release of medical records and information from the treating mental health professional to the Office of Counsel of the State Bar and will not revoke that release. Defendant shall also ensure that the treating mental health professional provides semi-annual written reports to the Office of Counsel of the State Bar concerning Defendant's compliance with the treatment plan. Such reports shall be received by the Office of Counsel each July 1 and January 1 for the duration of any stay of this suspension. Defendant shall also comply with any and all requests from the Office of Counsel seeking updates on the status of her ongoing treatment, if any, as recommended by the mental health professional for the duration of any stay of this suspension within fifteen (15) days of receipt of such requests. All expenses of such treatment and reports shall be borne by Defendant;
- (h) Defendant shall pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education requirements on a timely basis;
- (i) Defendant shall keep the North Carolina State Bar membership department advised of her current home and business street (not P.O. Box) addresses and telephone numbers. Defendant shall also accept all certified mail from the North Carolina State Bar and respond to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication or within fifteen (15) days of receipt of such communication, whichever is later;
- (j) Defendant shall not violate any state or federal laws or any provisions of the Rules of Professional Conduct during the period of the stayed suspension; and
- (k) Defendant shall pay all costs of this proceeding as assessed by the Secretary within 30 days after service of the statement of costs on her.


3. If Defendant fails to comply with any one or more of the conditions stated in Paragraph 2 above, then the stay of the suspension of her law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. If

the stay granted herein is lifted or the suspension of Defendant's license is activated for any reason, before a subsequent stay of the suspension can be entered Defendant must show by clear, cogent, and convincing evidence that she has complied or has arranged to comply with each of the conditions referenced in Paragraph 2.

4. All costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service upon her of the statement of costs by the Secretary.

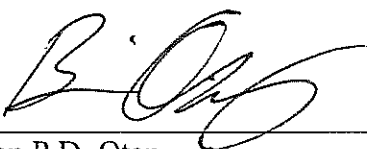
5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

Signed by the Chair with the consent of the other hearing panel members, this the 18th day of May, 2010.

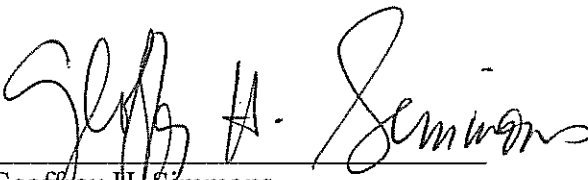


Tommy W. Jarrett, Chair
Disciplinary Hearing Panel

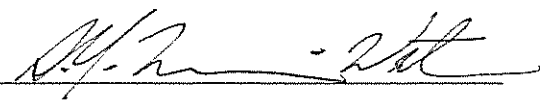
CONSENTED TO BY:



Brian P.D. Oten
Deputy Counsel
North Carolina State Bar
Counsel for Plaintiff



Geoffrey H. Simmons
Counsel for Defendant



Sharyl Y. Mason-Watson
Defendant