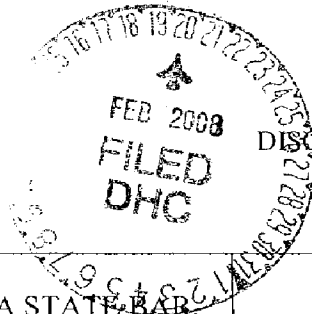


NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
07 DHC 4

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

TAMLA T. SCOTT, Attorney,

Defendant

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

This matter was considered by a hearing committee of the Disciplinary Hearing Commission composed of M. Ann Reed, Chair, and members Theodore C. Edwards, II and Donald G. Willhoit. Carmen K. Hoyme and Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant, Tamla T. Scott, was represented by Alan M. Schneider. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline. Based upon the stipulations of fact and the consent of the parties, the hearing committee hereby finds 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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Tamla T. Scott ("Scott" or "Defendant"), was admitted to the North Carolina State Bar in 1996, 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 Revised Rules of Professional Conduct

3. During all or part of the relevant periods referred to herein, Scott was engaged in the practice of law in Charlotte, Mecklenburg County, North Carolina.

4. Scott was properly served with process, a hearing in this matter was set, and the matter came before the hearing committee with due notice to all parties.

5. In September 2004, Jennifer Goodman ("Goodman") met with Scott regarding a child support and visitation matter. Goodman paid Scott a \$175.00 initial consultation fee on or about 2 September 2004.

6. On or about 6 October 2004, Goodman retained Scott to represent her and paid Scott \$500.00 in advance for her services.

7. After paying the \$175.00 and \$500.00 fees, Goodman received no further communication from Scott. Goodman made many phone calls, left messages and sent letters to Scott's office via facsimile and mail. Scott did not return Goodman's phone messages or respond to her letters.

8. In a February 2005 letter to Scott, Goodman discharged Scott and requested a refund of the \$675.00 she had paid. Scott did not respond to Goodman's February 2005 letter.

9. On 26 May 2005, Goodman filed a Petition for Resolution of Disputed Fee ("fee dispute") with the North Carolina State Bar. Goodman's fee dispute was assigned file number 05FD0289 and was referred to the Fee Dispute Resolution Committee of the Mecklenburg County Bar ("the local committee").

10. Scott failed to submit a written response to the fee dispute, but on or about 30 June 2005, Scott stated in a phone conversation with a representative of the local committee that she would refund some of Goodman's fees.

11. Scott did not refund any of the \$675.00 paid by Goodman.

12. Scott failed to respond to subsequent communications from the local committee representative regarding Goodman's fee dispute. The local committee's fee dispute file was closed and returned to the State Bar on or about 9 August 2005.

13. On or about 16 March 2005, Trina White ("White") retained Scott to represent her in a child support and custody matter.

14. White paid Scott a \$175.00 consultation fee and \$1,500.00 in advance for legal services.

15. Scott filed a Motion in the Cause in White's case on 6 May 2005, but did not complete the legal work for which she had been retained.

16. In the summer of 2005, Scott relocated to the Washington, DC area without notifying White.

17. In August 2005, Scott did not appear in court for a scheduled hearing in White's case.

18. In or about August 2005, White sent a letter to Scott's Capitol Heights, Maryland address requesting a refund of her fees.

19. Scott received White's letter by certified mail on 19 August 2005, but did not respond or refund any fees.

20. On 27 September 2005, White filed a Petition for Resolution of Disputed Fee ("fee dispute") with the North Carolina State Bar. White's fee dispute was assigned file number 05FD0555.

21. The State Bar sent a notice of White's fee dispute to Scott's Capitol Heights, Maryland address on or about 27 September 2005. Scott received this notice by certified mail on 8 October 2005.

22. Scott was required to respond within fifteen days of receipt of the notice of fee dispute, as specified in the notice. Scott failed to respond to the fee dispute within that time period.

23. On or about 22 September 2004, Andrea Smith ("Smith") hired Scott to represent her in seeking to modify a child custody order.

24. Smith paid Scott a \$175.00 consultation fee and \$1,500.00 in advance for legal services.

25. Scott did not complete the legal work for which Smith had retained her.

26. In the summer of 2005, Scott relocated to the Washington, DC area without notifying Smith.

27. Smith made phone calls, left messages, and sent emails to Scott inquiring about her case. Scott did not respond to Smith's phone calls or emails. When Smith went to Scott's office, she found the door locked and Scott's sign gone.

28. On 6 September 2005, Smith filed a Petition for Resolution of Disputed Fee ("fee dispute") with the North Carolina State Bar. Smith's fee dispute was assigned file number 05FD0505.

29. The State Bar sent a notice of Smith's fee dispute to Scott's Capitol Heights, Maryland address on or about 6 September 2005. This notice was returned marked "unclaimed."

30. The State Bar sent a second notice of Smith's fee dispute to Scott's Capitol Heights, Maryland address on or about 11 October 2005. Scott received this notice by certified mail on 22 October 2005.

31. Scott was required to respond within fifteen days of receipt of the notice of fee dispute, as specified in the notice. Scott failed to respond to the fee dispute within that time period.

32. On or about 14 December 2004, Jeffrey Porter ("Porter") hired Scott to represent him in a child support matter.

33. Porter paid Scott \$700.00 on or about 14 December 2004 for representation at a December 2004 hearing. Porter paid Scott an additional \$500.00 on or about 29 April 2005 for additional representation.

34. During the summer of 2005, Scott relocated to the Washington, DC area without notifying Porter.

35. On or about 8 August 2005, Scott failed to appear at a court hearing in Porter's case.

36. Porter made several phone calls and sent several emails to Scott inquiring about her absence and the status of his case. Scott did not respond to Porter's inquiries.

37. On 6 September 2005, Porter filed a Petition for Resolution of Disputed Fee ("fee dispute") with the North Carolina State Bar. Porter's fee dispute was assigned file number 05FD0503.

38. The State Bar sent a notice of Porter's fee dispute to Scott's Capitol Heights, Maryland address on or about 6 September 2005. This notice was returned marked "unclaimed."

39. The State Bar sent a second notice of Porter's fee dispute to Scott's Capitol Heights, Maryland address on or about 11 October 2005. Scott received this notice by certified mail on 22 October 2005.

40. Scott was required to respond within fifteen days of receipt of the notice of fee dispute, as specified in the notice. Scott failed to respond to the fee dispute within that time period.

41. On or about 4 January 2006, the State Bar sent a follow-up letter, reminding Scott of her obligation to respond to Porter's fee dispute. This letter, which was sent certified mail to Scott's Capitol Heights, Maryland address, was returned marked "unclaimed."

42. The State Bar opened Grievance files concerning Scott's conduct in the matters of Goodman, White, Smith, and Porter and in the fee dispute resolution process related to these clients.

43. Scott received the letter of notice in the Goodman grievance by certified mail on 22 October 2005.

44. Scott was required to respond within fifteen days of receipt of the letter of notice: She failed to respond within that time period.

45. Scott responded by letter dated 23 November 2005 and received by the State Bar on 8 December 2005.

46. In December 2005, the State Bar attempted to send Scott letters of notice in the White and Smith grievances by certified mail to her Capitol Heights, Maryland address. These letters of notice were returned "unclaimed."

47. The State Bar sent Scott a letter dated 3 January 2006 requesting additional information in the Goodman grievance file. This letter was returned with a notation indicating Scott's post office box in Capitol Heights, Maryland had been closed with no forwarding information.

48. On or about 31 January 2006, a State Bar investigator contacted Scott by phone, at which time Scott provided the State Bar with her Washington, DC address.

49. In a letter to Scott dated 1 February 2006, the State Bar requested Scott's response to the following, copies of which were enclosed therein:

- a. The letter of notice in grievance file number 06G0109 (the Porter matter);
- b. The letter of notice in grievance file number 05G1329 (the Smith matter);
- c. The letter of notice in grievance file number 05G0989 (the White matter);
- d. The State Bar's additional inquiry regarding grievance file number 05G0989 (the Goodman matter); and
- e. Notice of a claim filed against Scott with the State Bar's Client Security Fund (File number 06CSF0129).

50. The State Bar's 1 February 2006 letter was sent via certified mail to the Washington, DC address provided by Scott, but was returned marked "unclaimed."

51. On 3 April 2006, Capitol Process Services personally served Scott with the State Bar's 1 February 2006 letter with the above listed enclosures.

52. By letter dated 30 May 2006, the State Bar notified Scott that 23 June 2006 was the deadline by which she needed to respond to all State Bar inquiries with which she had been served on 3 April 2006.

53. Scott did not respond to the above-listed State Bar inquiries by 23 June 2006 or thereafter.

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Committee and the Committee has jurisdiction over the Defendant, Tamla T. Scott, and the subject matter.

2. The Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline as follows:

- (a) By failing to perform the legal services that Goodman, White, Smith, and Porter hired her to perform, Scott failed to act with reasonable diligence and promptness in representing her clients in violation of Rule 1.3;
- (b) By failing to return calls, faxes, and letters from Goodman inquiring about her case, failing to respond to White's August 2005 letter, failing to respond to Smith's calls and emails inquiring about her case, and failing to respond to Porter's calls and emails inquiring about his case, Scott failed to comply with clients' reasonable requests for information in violation of Rule 1.4(a)(4);
- (c) By failing to notify White, Smith, and Porter that she was relocating, Scott failed to keep her clients reasonably informed in violation of Rule 1.4(a)(3);
- (d) By failing to refund any unearned fees to Goodman, White, Smith, or Porter upon termination of the representations, Scott failed to protect her clients' interests upon termination of the representation in violation of Rule 1.16(d);
- (e) By failing to respond to the State Bar's notices of fee disputes filed by White, Smith, and Porter, and by failing to submit a written response to Goodman's fee dispute and failing to respond to letters and phone calls from the local fee dispute committee, Scott failed to participate in good faith in the fee dispute resolution process in violation of Rule 1.5(f); and
- (f) By failing to respond to the Goodman letter of notice issued by the Chair of the Grievance Committee within the deadline established by the rules, by failing to respond to the letter requesting additional information in the Goodman file, and by failing to respond to letters of notice in files 06G0109, 05G1329, 05G0989, and 06CSF0129, Scott failed to respond to lawful inquiries from a disciplinary authority in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3).

Based upon the stipulations of fact and the consent of the parties, the Hearing Committee hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

- 1. Scott's misconduct is aggravated by the following factors:
 - a. prior disciplinary offense, to wit: a Reprimand issued in 2003;

- b. a pattern of misconduct;
- c. multiple offenses; and
- d. substantial experience in the practice of law.

2. Scott's misconduct is mitigated by the following factors:

- a. absence of a dishonest or selfish motive;
- b. significant personal problems during the time period in which the violations occurred;
- c. full and free disclosure to the hearing committee or cooperative attitude toward the proceedings;
- d. character and reputation in the community; and
- e. remorse.

3. The aggravating factors outweigh the mitigating factors.

4. Defendant has engaged in conduct that caused potential significant harm to her clients and caused actual delay in certain clients' cases.

5. The conduct of Defendant caused actual harm to the standing of the legal profession, undermining her clients' trust and confidence in lawyers and the legal system.

6. Defendant's failure to participate in good faith in the State Bar's fee dispute resolution program and failure to respond to the Letters of Notice from the State Bar interfered with the State Bar's ability to regulate attorneys and undermined the privilege of lawyers in this State to remain self-regulating.

7. This DHC Committee has considered lesser alternatives and finds that a public censure or reprimand would not be sufficient discipline because of the gravity of the harm caused by the conduct of Defendant to her clients, to the profession, and to the administration of justice.

8. This DHC Committee finds Defendant's conduct caused significant harm and significant potential harm to clients and to the administration of justice, to the profession, and to members of the public, and that more severe discipline is necessary to protect the public.

9. For those reasons, this DHC Committee believes and so finds that an Order calling for discipline short of a suspension of Defendant's law license would not be appropriate.

Based upon the foregoing factors and with the consent of the parties, the Hearing Committee hereby enters the following

ORDER OF DISCIPLINE

1. The license of Defendant, Tamla T. Scott, is hereby suspended for three years. This suspension shall go into effect immediately upon service of this order on Scott.

2. Scott shall submit her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Scott shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the North Carolina State Bar Discipline and Disability Rules. Defendant shall file an affidavit certifying she has complied with the wind down rule with the Secretary of the North Carolina State Bar within 30 days of the effective date of this order.

4. After serving one year of the active suspension of her license, Defendant may apply for a stay of the remaining period of suspension upon filing a petition with the Secretary of the North Carolina State Bar demonstrating by clear, cogent, and convincing evidence that, in addition to complying with the general provisions for reinstatement listed in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125 of the North Carolina State Bar Discipline & Disability Rules, Scott has complied with the following conditions:

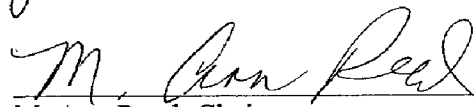
a. Paid the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar within 60 days of notice of the costs being mailed to her at her address of record;

b. Paid all Membership dues and Client Security Fund assessments and complied with all Continuing Legal Education (CLE) requirements on a timely basis as if still in practice during the suspension. The State Bar does not send membership and CLE notices to members who are suspended, so it is Defendant's obligation to contact the appropriate departments on a timely basis, ascertain her financial and CLE obligations during her suspension, and timely satisfy those obligations;

c. Advised the State Bar's Membership Department in writing of all changes to her home and/or business address within 10 days of the change;

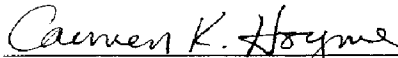
d. Participated fully and timely in the fee dispute program when and if any of the clients named in this order re-file a petition for resolution of disputed fee with the State Bar and paid any refund found appropriate by the mediator at least 30 days prior to filing any petition for reinstatement. This

Signed by the Chair with the consent of the other hearing committee members,
this the 18th day of February, 2008.

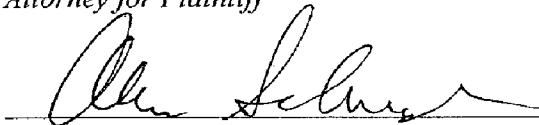


M. Ann Reed, Chair
Disciplinary Hearing Committee

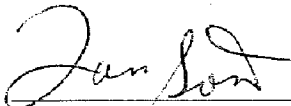
CONSENTED TO BY:



Carmen K. Hoyme, Deputy Counsel
Attorney for Plaintiff



Alan M. Schneider
Attorney for Defendant



Tamla T. Scott
Defendant

order hereby specifically provides that the clients named in this order shall be able to re-file petitions to participate in the State Bar's fee dispute program; and

e. Responded to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in each communication or within 30 days of receipt, whichever is earlier.

5. If Defendant successfully seeks a stay of the suspension of her law license, such stay will continue in force only as long as she complies with the following conditions:

a. Defendant will respond to all letters of notice and requests for information from the State Bar by the deadlines stated in each communication or within 30 days of receipt, whichever is earlier.

b. Defendant will advise the State Bar's Membership Department in writing of all changes to her home and/or business address within 10 days of the change.

c. Defendant will pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education (CLE) requirements on a timely basis.

d. Defendant will not violate the Revised Rules of Professional Conduct or the laws of the United States or any state.

6. If an order staying any period of this suspension is entered and Defendant fails to comply with one or more of the conditions referenced in Paragraph 5, then the stay of the suspension of her law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

7. If Defendant does not seek a stay of the active portion of the suspension of her law license or if some part of the suspension is stayed and thereafter the stay is revoked, Defendant must comply with the general provisions for reinstatement listed in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125 and the conditions set out in paragraphs 4 (a) – (e) above before seeking reinstatement of her license to practice law, and must provide in her application for reinstatement clear, cogent, and convincing evidence showing her compliance therewith.

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