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WAKE COUNTY SUPERIOR COURT  
NORTH CAROLINA  
BEFORE THE DISCIPLINARY HEARING COMMISSION  
OF THE NORTH CAROLINA STATE BAR  
99 DHC 27

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
v. ) CONSENT ORDER OF DISCIPLINE  
CECELIA M. RHASIATRY )  
Defendant )

This matter came before a Hearing Committee of the Disciplinary Hearing Commission composed of Joseph G. Maddrey, Chair; Elizabeth Bunting and Jean Hauser, pursuant to Section .0114 of the Discipline and Disability Rules of the North Carolina State Bar (hereinafter "Bar Rules"). Defendant, Cecelia Rhasiatry, represented herself. Douglas J. Brocker represented plaintiff. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Based upon the consent of the parties the hearing committee hereby enters 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, Cecelia M. Rhasiatry (hereafter "Rhasiatry"), was admitted to the North Carolina State Bar on March 22, 1997 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 the times relevant to this complaint, Rhasiatry actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Statesville, Iredell County, North Carolina.

4. Rhasiatry waived her right to a formal hearing.

5. Rhasiatry was properly served with process and the hearing was held with due notice to all parties.

6. Amparo and Luis Marin retained Rhasiatry to represent them on two separate legal matters on approximately July 6, 1998.

7. The Marins paid Rhasiatry \$1,000 to assist them in regaining a computer hard drive and other materials from the Federal Bureau of Investigation.

8. The Marins also paid Rhasiatry \$300 to draft a power of attorney.

9. The Marins wrote Rhasiatry a letter dated August 6, 1998 terminating her services and requesting the return of their file and fee by August 10, 1998.

10. The State Bar subsequently contacted Rhasiatry on a number of occasions regarding returning the Marins' file and fee.

11. Rhasiatry failed to return the Marins file and fee until October 7, 1998.

12. Mary Beth Carrigan retained Rhasiatry to represent her on a traffic violation in Iredell County District Court.

13. Rhasiatry appeared on behalf of Ms. Carrigan on April 22, 1998 and plead her guilty to the offense of improper equipment.

14. Rhasiatry subsequently sent Ms. Carrigan a letter dated April 27, 1998. In the letter, Rhasiatry instructed Ms. Carrigan to pay the court costs and fine of \$105 directly to Iredell County no later than May 12, 1998.

15. Ms. Carrigan sent \$105 directly to Rhasiatry.

16. Rather than return the check, as a service to Ms. Carrigan, Ms. Rhasiatry deposited those funds into her trust account on May 12, 1998. She subsequently issued a check and paid the clerk's office on May 15, 1998.

17. DMV subsequently revoked Ms. Carrigan's license for failing to promptly pay the court costs.

18. On August 8, 1998, Carrigan was arrested for driving while license revoked.

19. Carrigan subsequently filed a grievance with the North Carolina State Bar. At the time she filed the grievance, Ms. Carrigan asserted that Rhasiatry had failed to pay the \$105 fine.

20. On October 8, 1998, Rhasiatry was served with a Letter of Notice regarding Ms. Carrigan grievance and required to respond within 15 days.

21. Rhasiatry also was served with a Subpoena for Cause Audit regarding her handling of the funds Ms. Carrigan paid her for the costs and fine. The subpoena required her to produce the requested materials no later than October 16, 1998.

22. Despite repeated requests, Rhasiatry failed to produce the documents in response to the subpoena or respond to the grievance until November 4, 1998.

23. After receiving the records from Rhasiatry, the State Bar confirmed that she had disbursed the funds from Ms. Carrigan appropriately and that those funds had not been misused or misappropriated.

24. Herman Dagenhart retained Rhasiatry to represent him for a fee of \$70.

25. Rhasiatry withdrew from representing Dagenhart on this matter by letter dated February 13, 1998.

26. Dagenhart filed a grievance with the North Carolina State Bar on February 24, 1998.

27. Rhasiatry received a Letter of Notice regarding Dagenhart's grievance on March 24, 1998 and was required to respond within 15 days.

28. Rhasiatry failed to respond to this Letter of Notice within fifteen days of its receipt.

29. On approximately April 13, 1998, Rhasiatry was sent a follow up letter asking her to respond to Dagenhart's grievance no later than April 24, 1998.

30. Rhasiatry failed to respond to Dagenhart's grievance by April 24, 1998.

31. Rhasiatry was subsequently subpoenaed to appear on May 19, 1998 regarding the Dagenhart's grievance.

32. The subpoena was served on Rhasiatry on May 8, 1998.

33. After receiving the subpoena, Rhasiatry responded to Dagenhart's grievance in a letter received by the State Bar on May 18, 1998.

Based upon the consent of the parties and the foregoing Findings of Fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over Rhasiatry and the subject matter of this proceeding.

2. Rhasiatry'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 (3) and the Revised Rules of Professional Conduct ("Revised Rules") as follows:

a. By failing to promptly return the Marins' client file and fee, Rhasiatry violated Revised Rule 1.16(d);

b. By failing to respond timely to the Letter of Notice and produce documents in response to the Subpoena for Cause Audit in the Carrigan grievance, Rhasiatry failed to respond timely to a lawful demand for information from a disciplinary authority, in violation of Revised Rule 8.1(b);

c. By failing to respond timely to the Letter of Notice and follow up correspondence until subpoenaed to appear in the Dagenhart grievance, Rhasiatry failed to respond timely to a lawful demand for information from a disciplinary authority, in violation of Revised Rule 8.1(b)

Based upon the consent of the parties, the hearing committee also enters the following:

#### FINDINGS OF FACT REGARDING DISCIPLINE

1. The defendant's misconduct is aggravated by the following factor:
  - a. multiple offenses
2. The defendant's misconduct is mitigated by the following factors:
  - a. absence of a prior disciplinary record;
  - b. absence of a dishonest motive; and
  - c. inexperience in the practice of law.
3. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing findings of fact and conclusions of law and the findings regarding discipline and based upon the consent of the parties, the hearing committee enters the following:

## ORDER OF DISCIPLINE

1. Cecelia M. Rhasiatry is hereby suspended from the practice of law for 90 days, effective 30 days from service of this order upon her. The period of suspension is stayed for one year upon the following conditions:

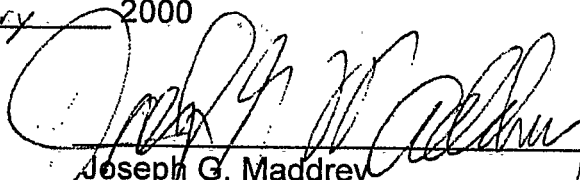
- (a) Rhasiatry attend and complete a Law Management Practice Program approved by the State Bar. Rhasiatry must schedule an initial appointment within 60 days of the filing of this Order of Discipline. Rhasiatry shall be responsible for paying all costs associated with attending and completing the program as a condition of the stayed suspension. Rhasiatry shall send the State Bar quarterly progress reports from the program administrator until she satisfactorily completes the program. These quarterly reports shall be due no later than April 1, July 1, and October 1, 2000, and January 1, 2001. Rhasiatry also shall send the State Bar documentation that the program has been satisfactorily completed no later than 60 days before the expiration of the stayed suspension.
- (b) Rhasiatry shall not violate any Revised Rule of Professional Conduct or any state or federal criminal laws during the stayed suspension; and
- (c) Rhasiatry shall pay the costs of this proceeding as assessed by the Secretary within 60 days from the entry of this order.

2. If, upon a motion by the State Bar, a Hearing Committee of the DHC finds that Rhasiatry has violated any of the conditions in Section 1(a)-(c) of this Order, the suspension of Rhasiatry's license shall be activated. If the suspension is activated, prior to seeking reinstatement of his license, Rhasiatry must:

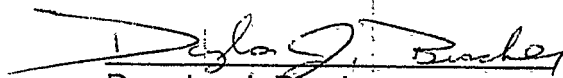
- (a) comply with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0125(b) of the N.C. State Bar Discipline & Disability Rules; and
- (b) send the State Bar documentation that she has satisfactorily completed a Law Management Practice Program approved by the State Bar;


Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

This the 31 day of January 2000

  
Joseph G. Maddrey  
Chair Hearing Committee

We Consent:

  
Douglas J. Brocker  
Counsel for Plaintiff

  
Cecelia M. Rhasiatry  
Defendant