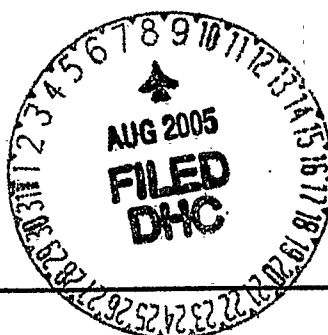


WAKE COUNTY
NORTH CAROLINA



26501
BEFORE THE DISCIPLINARY
HEARING COMMISSION OF
THE NORTH CAROLINA STATE BAR
05 DHC 16

THE NORTH CAROLINA STATE BAR
Plaintiff

v.

MATTHEW A. BROMUND, Attorney
Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER OF DISCIPLINE

This matter came on to be heard on June 30, 2005 before a hearing committee of the Disciplinary Hearing Commission composed of Carlyn G. Poole, Chair; M. Ann Reed and Johnny A. Freeman; with A. Root Edmonson representing the North Carolina State Bar and Matthew A. Bromund appearing *pro se*. Based upon the admissions in the Answer, the stipulations of fact in the Pre-Hearing Order and the evidence presented at the hearing, the hearing committee finds that the following facts have been established by clear, cogent and convincing evidence:

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, Matthew A. Bromund ("Bromund"), was admitted to the North Carolina State Bar on August 21, 1999 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, Bromund actively engaged in the private practice of law in the State of North Carolina and was employed in a law office in the city of Greensboro, Guilford County, North Carolina.

4. In March 2004, Bromund accepted employment as a salaried associate in the law office of Nestor Capote ("Capote").

5. Pursuant to his employment arrangement with Capote, all fees that Bromund received from clients were the property of Capote and should have been deposited into one of Capote's law office accounts.
6. On or about June 17, 2002, Gary D. Thomas ("Thomas") retained Bromund to represent him in a matter.
7. Thomas made the check for his \$200 fee payable to Bromund rather than to Capote's law office.
8. Thomas paid Bromund his \$200 fee by check number 1121 dated June 17, 2004 made payable to Bromund.
9. On or before July 14, 2004, Bromund deposited the Thomas fee check number 1121 into his personal account at USAA Federal Savings Bank, account number 314074269.
10. Bromund appropriated the \$200 Thomas fee that was the property of Capote to his own use in violation of N.C. GEN. STAT. § 14-90.
11. When confronted by Capote about the Thomas fee matter on July 30, 2004, Bromund initially misrepresented to Capote that the Thomas check was a payment to his wife and that Thomas had mistakenly made the check payable to him.
12. That same day, Bromund admitted he took the Thomas fee and paid it back to Capote.
13. On or about June 15, 2004, Jorge Luis Jimenez ("Jimenez") retained Bromund to represent him in a domestic matter in High Point in Guilford County District Court.
14. Jimenez paid Bromund \$350 in cash as the attorney fee for the representation.
15. Bromund used a Capote law office receipt book to prepare receipt number 1051 for Jimenez in the amount of \$350. Bromund gave Jimenez the white copy of receipt number 1051.
16. Bromund destroyed the yellow copy of receipt number 1051 that was supposed to go in the Jimenez file and the pink copy of receipt number 1051 that was supposed to go to the law office bookkeeper.
17. Bromund then created a new receipt for the Jimenez fee, being receipt number 1052, in the amount of \$150. Bromund placed the yellow copy of this receipt in the Jimenez file and gave the pink copy of this receipt to the law office bookkeeper.
18. Bromund created receipt 1052 to conceal the true amount of the fee paid by Jimenez from Capote and his law office personnel.

19. Bromund appropriated \$200 of the Jimenez fee that was the property of Capote to his own use in violation of N.C. GEN. STAT. § 14-90.

20. On or about June 16, 2004, Francisco Cabrera ("Cabrera") retained Bromund to represent him in a domestic matter.

21. When he retained Bromund, Cabrera paid Bromund \$300 in cash as the attorney fee for the representation.

22. Bromund used a Capote law office receipt book to prepare receipt number 1100, the last receipt in the book, for Cabrera in the amount of \$300. Bromund gave Jimenez the white copy of receipt number 1100.

23. Bromund destroyed the yellow copy of receipt number 1100 that was supposed to go in the Cabrera file and the pink copy of receipt number 1100 that was supposed to go to the law office bookkeeper.

24. Bromund appropriated the \$300 Cabrera fee that was the property of Capote to his own use in violation of N.C. GEN. STAT. § 14-90.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

1. All parties were properly before the hearing committee of the Disciplinary Hearing Commission and the hearing committee had jurisdiction over Bromund and the subject matter.

2. Bromund's conduct, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(a) & (b)(2) in that Bromund violated the Revised Rules of Professional Conduct as follows:

- (a) by appropriating the all or part of the fees paid by Thomas, Jimenez and Cabrera to his own use instead of remitting the fees to Capote, Bromund committed a criminal acts that reflect adversely on his honesty, trustworthiness, or fitness as a lawyer in violation of Revised Rule 8.4(b); and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Revised Rule 8.4(c);
- (b) by misrepresenting to Capote that the Thomas check was a payment to his wife that was mistakenly written to him, Bromund engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Revised Rule 8.4(c);
- (c) by creating the fictitious receipt number 1052 to conceal the true amount of the fee paid by Jimenez from Capote and his law office personnel, Bromund

engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Revised Rule 8.4(c);

- (d) by destroying the office copies of the Cabrera receipts to conceal the receipt of the fee, Bromund engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Revised Rule 8.4(c).

BASED UPON the foregoing Findings of Fact and Conclusions of Law, the evidence presented at the hearing and the arguments of counsel, the hearing committee hereby makes the following:

FINDINGS OF FACT REGARDING DISCIPLINE

1. At the hearing, Bromund apologized to Capote, the State Bar, and to the hearing committee. Through these apologies, Bromund expressed remorse for his misconduct.
2. On July 30, 2004, the day that Capote confronted Bromund with his discovery of the Thomas fee, Bromund went home, got \$200 in cash, and returned it to Capote.
3. Bromund didn't tender anything further to Capote at that time because Bromund assumed that, by Capote not having to pay him any bonus for the last month of his employment, Bromund had made restitution for the remaining fees owed. However, Bromund's assumption didn't consider the other economic and professional losses his conduct caused Capote, including the refunds Capote had to make to Bromund's clients because Capote couldn't handle the caseload caused by Bromund's sudden departure.
4. Bromund's assumption that he didn't have to make further restitution to Capote shows that Bromund failed to fully appreciate the seriousness of his misconduct.
5. At the hearing, Bromund tendered a check to Capote for \$500 representing the amount of the Jimenez and Cabrera fees that he had taken from Capote.

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. Bromund's misconduct is aggravated by the following factors:
 - (a) dishonest or selfish motive;
 - (b) a pattern of misconduct; and
 - (c) multiple offenses.
2. Bromund's misconduct is mitigated by the following factors:
 - (a) absence of a prior disciplinary record;

- (b) a cooperative attitude toward the proceedings;
- (c) expressions of remorse through his apologies to Capote and others; and
- (d) an attempt to make restitution, although his attempt didn't fully reimburse Capote for the economic and professional damage caused.

3. The aggravating factors outweigh the mitigating factors.

4. An order calling for any discipline short of disbarment would not sufficiently protect the public for the following reasons:

(a) Theft is one of the most serious offenses that an attorney can commit, whether the theft is from a client or from a law firm. Such an offense demonstrates that the offending attorney is not trustworthy. Clients are entitled to have trustworthy attorneys. When an attorney violates that trust, it harms the public. No discipline short of disbarment can protect the public from an untrustworthy member of the legal profession.

(b) In addition to the public harm, an untrustworthy attorney harms the legal profession and the administration of justice. No discipline short of disbarment can maintain the reputation of the legal profession and instill the public's trust in the administration of justice.

(c) Entry of an order imposing discipline short of disbarment would fail to acknowledge the seriousness of the offenses that Bromund committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar in this State.

(d) The protection of the public, the legal profession and the administration of justice requires that Bromund not be permitted to resume the practice of law until he demonstrates that he has reformed, and that permitting him to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice. Disbarred attorneys must show reformation, among other things, before they resume the practice of law, whereas no such showing of reformation is required of an attorney whose license is merely suspended for a term certain.

BASED UPON the foregoing Findings of Fact and Conclusions of Law Regarding Discipline and the arguments of counsel, the hearing committee hereby enters the following:

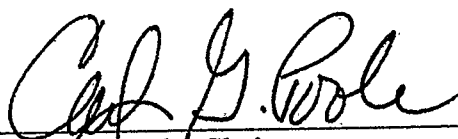
ORDER OF DISCIPLINE

1. The Defendant, Matthew A. Bromund, is hereby DISBARRED.
2. Bromund shall surrender his license and membership card to the Secretary within 30 days of the effective date of this order.

3. Bromund shall comply with the requirements of 27 NCAC 1B, §.0124.

4. The costs of this proceeding are taxed to Bromund and shall be paid as assessed by the Secretary.

Signed with the Chair with the consent of the other members of the hearing committee
this the 8 day of August 2005.



Carlyn G. Poole, Chair
Hearing Committee