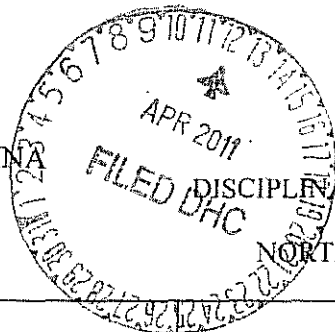


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 41

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARK L. JENKINS, Attorney,

Defendant

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

THIS MATTER was heard on 31 March 2011 before a hearing panel of the Disciplinary Hearing Commission composed of M. H. Hood Ellis, Chair, Theodore C. Edwards, II and Karen B. Ray. Brian P.D. Oten appeared on behalf of Plaintiff, the North Carolina State Bar. Defendant, Mark L. Jenkins, was not present at the hearing and was not represented by counsel.

Based upon the pleadings and the evidence presented at the hearing, the hearing panel hereby makes 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, Mark L. Jenkins ("Defendant" or "Jenkins"), was admitted to the North Carolina State Bar on April 8, 1994, 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 part of the relevant periods referred to herein, Jenkins was engaged in the practice of law in the State of North Carolina and maintained a law office in Waynesville, Haywood County, North Carolina.

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

5. In or around May 2007, Peter Watkinson ("Watkinson") retained Jenkins for representation in a civil matter. Watkinson paid Jenkins for the representation.

6. In August 2007, Jenkins informed Watkinson that Watkinson's case had been ordered to go to mediation.

7. Jenkins led Watkinson to believe that he had filed a complaint on Watkinson's behalf.

8. Jenkins did not file a complaint on Watkinson's behalf in the matter as indicated.

9. In or around October 2007, Watkinson contacted the Haywood County Clerk of Court regarding the status of his case.

10. The Haywood County Clerk of Court ("the Clerk") informed Watkinson that no complaint or any other document had been filed on his behalf in the matter.

11. Throughout the course of the representation, Jenkins repeatedly provided Watkinson with fictitious court dates and false updates about the status of Watkinson's case.

12. Jenkins misled Watkinson regarding the status of his case and the work Jenkins had completed on Watkinson's matter.

13. In or around October 2007, Watkinson contacted the State Bar regarding his experience with Jenkins. On or about 15 January 2008, the State Bar opened a grievance file against Jenkins based on Watkinson's complaint, grievance file no. 08G0058.

14. On or about 9 May 2008, the State Bar sent a Letter of Notice to Jenkins by certified mail regarding grievance file no. 08G0058. Jenkins timely responded to the Letter of Notice regarding grievance file no. 08G0058.

15. By letter dated 30 July 2008, the State Bar requested further information from Jenkins regarding his response to grievance file no. 08G0058. Jenkins was required to respond to this follow-up letter by 15 August 2008.

16. Jenkins failed to respond to the State Bar's 30 July 2008 follow-up letter within the time period provided.

17. On August 28, 2008, the State Bar received Jenkins's response to the 30 July 2008 follow-up letter.

18. In or around December 2007, Bruce D. Sutton ("Sutton") retained Jenkins for representation in a civil matter. Sutton paid Jenkins \$1,500.00 and agreed to pay Jenkins twenty percent of any damages awarded for the representation.

19. In or around December 2007, Sutton informed Jenkins that the statute of limitations on his claim was set to expire in June 2008. Jenkins assured Sutton that a complaint would be filed before the statute of limitations expired.

20. In or around April or May 2008, Jenkins informed Sutton that he had filed a complaint on Sutton's behalf in the matter.

21. Jenkins did not file a complaint on Sutton's behalf in early 2008 as claimed.

22. Between December 2007 and early 2009, Jenkins repeatedly provided Sutton with fictitious court dates and falsely informed Sutton of progress made in his case.

23. Sutton eventually contacted the Haywood County Clerk of Court regarding the status of his case and was informed that no complaint or any other document had been filed on his behalf in the matter.

24. Jenkins did not file a complaint on Sutton's behalf in the matter until 2 September 2009, which was over one year after the June 2008 statute of limitations in Sutton's matter expired.

25. Jenkins misled Sutton regarding the status of his case and the work Jenkins had completed on Sutton's matter.

26. Jenkins's delay in filing the complaint until September 2009 caused Sutton's claim to be barred.

27. Throughout the course of the representation, Jenkins failed to respond to Sutton's requests for information, failed to provide substantive and useful updates to Sutton regarding his case, and otherwise failed to maintain adequate communication with Sutton.

28. After learning of Jenkins's failure to file a complaint on his behalf, Sutton requested a refund of the \$1,500.00 legal fee previously paid to Jenkins.

29. Jenkins failed to refund any unearned portion of Sutton's fee.

30. On or about 12 July 2010, Jenkins voluntarily dismissed Sutton's lawsuit.

31. Jenkins did not speak with Sutton or otherwise obtain Sutton's authorization to dismiss his pending lawsuit prior to voluntarily dismissing the lawsuit.

32. Jenkins did not inform Sutton that he voluntarily dismissed the lawsuit.

33. In or around July 2002, Bobby Teaster ("Teaster") retained Jenkins for representation in a civil matter. Teaster paid Jenkins for the representation.

34. On or about 13 November 2003, Jenkins filed a complaint on Teaster's behalf in his civil matter.

35. On or about 20 April 2005, Jenkins voluntarily dismissed Teaster's complaint.

36. On or about 19 April 2006, Jenkins filed another complaint on Teaster's behalf concerning the civil matter for which Teaster originally retained Jenkins in July 2002.

37. A hearing on Teaster's case was continued on or about 4 February 2009 and 16 April 2009 to allow for service of the complaint.

38. Jenkins falsely informed Teaster that the opposing party had been served with the 2006 complaint in the matter.

39. Contrary to Jenkins's claim, the opposing party had not been served with Teaster's complaint.

40. On or about 18 May 2009, Teaster's case was dismissed due to Jenkins's failure to perfect service on the opposing party.

41. Jenkins failed to notify Teaster of the dismissal of the case.

42. After the case was dismissed, Jenkins requested additional legal fees from Teaster but did not inform Teaster that the case had been dismissed. Teaster paid Jenkins \$767.00 on or about 25 March 2009 and \$720.00 on 17 September 2009 to continue pursuing what Teaster thought was his pending case.

43. In late 2009, Teaster met with Jenkins to discuss his case. Jenkins informed Teaster that the case was progressing smoothly.

44. Jenkins misled Teaster regarding the status of his case and the work Jenkins had completed on Teaster's matter.

45. In February 2010, Teaster went to the Haywood County courthouse and discovered his case had been dismissed in May 2009.

46. After Teaster learned about his case being dismissed, Teaster repeatedly attempted to contact Jenkins by telephone for an explanation. Jenkins did not return Teaster's telephone calls.

47. On or about 15 February 2010, Teaster spoke with Jenkins's assistant, who promised to deliver Teaster's message to Jenkins and set up an appointment for Teaster to speak with Jenkins. Jenkins did not respond to Teaster's message and did not set up an appointment to speak with Teaster.

48. Throughout the course of the representation, Jenkins failed to respond to Teaster's requests for information, failed to provide substantive and useful updates to Teaster regarding his case, and otherwise failed to maintain adequate communication with Teaster.

49. Throughout the course of the representation, Jenkins repeatedly provided Teaster with fictitious court dates and false updates about the status of Teaster's case.

50. In or around April 2005, Teresa Brown ("Brown") retained Jenkins for representation in a civil matter. Brown paid Jenkins \$1,500.00 and agreed to pay Jenkins ten percent of any damages awarded for the representation.

51. On or about 1 May 2006, Jenkins filed a complaint on Brown's behalf in her civil matter.

52. Throughout the course of the representation, Jenkins repeatedly provided Brown with fictitious court dates and false updates about the status of Brown's case.

53. Throughout the course of the representation, Jenkins failed to respond to Brown's requests for information, failed to provide substantive and useful updates to Brown regarding her case, and otherwise failed to maintain adequate communication with Brown.

54. A hearing on Brown's case was continued on or about 14 January 2009, 4 February 2009 and 25 March 2009 to allow for service of the complaint.

55. Jenkins falsely informed Brown that the opposing party had been served with the complaint in the matter.

56. Contrary to Jenkins's claim, the opposing party had not been served with Brown's complaint.

57. On or about 18 May 2009, Brown's case was dismissed due to Jenkins's failure to perfect service on the opposing party.

58. In or around 1999, Wayne and Oveida Pitts ("the Pitts") retained Jenkins for representation in a civil matter. The Pitts paid Jenkins for the representation.

59. In or around June 1999, Jenkins filed a complaint on the Pitts' behalf in their civil matter.

60. On or about 24 August 2005, Jenkins voluntarily dismissed the Pitts' lawsuit.

61. Jenkins did not obtain the Pitts' authorization to dismiss their pending lawsuit prior to voluntarily dismissing their lawsuit in 2005.

62. Jenkins did not inform the Pitts that he voluntarily dismissed their lawsuit in 2005.

63. On or about 24 August 2006, Jenkins filed another complaint on the Pitts' behalf in their civil matter.

64. Throughout the course of the representation, Jenkins continually informed the Pitts that the hearing in their matter had been continued based on the court's schedule.

65. Throughout the course of the representation, Jenkins failed to respond to the Pitts' requests for information, failed to provide substantive and useful updates to the Pitts regarding their case, and otherwise failed to maintain adequate communication with Pitts.

66. On or about 17 January 2009, the Pitts' matter was scheduled for district court session beginning 3 February 2009.

67. On or about 26 January 2009, Jenkins voluntarily dismissed the Pitts' lawsuit.

68. Jenkins did not speak with the Pitts or otherwise obtain the Pitts' authorization to dismiss their pending lawsuit prior to voluntarily dismissing their lawsuit in 2009.

69. Jenkins did not inform the Pitts that he voluntarily dismissed their lawsuit in 2009.

70. In or around 1997, George Rogers, Sr. ("Rogers") retained the law firm of Brown, Queen & Patten, PA for representation in a civil matter. The law firm assigned Jenkins, who was employed by the firm at the time, to represent Rogers in the civil matter. Rogers paid for the representation.

71. Jenkins continued to represent Rogers in Rogers's civil matter when Jenkins left the firm of Brown, Queen & Patten, PA.

72. In or around 1997, Jenkins filed a complaint on Rogers's behalf in his civil matter.

73. In or around November 1999, Jenkins voluntarily dismissed Rogers's civil claim.

74. Jenkins did not speak with Rogers or otherwise obtain Rogers's authorization to dismiss his pending lawsuit prior to voluntarily dismissing his lawsuit.

75. Throughout the course of the representation, Jenkins failed to respond to Rogers's requests for information, failed to provide substantive and useful updates to Rogers regarding his case, and otherwise failed to maintain adequate communication with Rogers.

76. Between 2006 and 2008, Jenkins indicated to Rogers that all parties involved in the matter agreed to settle the dispute and had Rogers sign and notarize at least two different settlement agreements purporting to resolve the matter.

77. The purported agreements Jenkins had Rogers sign were not agreed upon by all parties as Jenkins claimed, and Rogers's dispute was not resolved as Jenkins claimed.

78. Jenkins did not respond to Rogers's subsequent requests for information or status updates regarding the signed agreements.

79. Jenkins misled Rogers regarding the status of his case and the work Jenkins had completed on Rogers's matter.

80. In or around August 2008, Rogers hired new counsel to resolve the matter for which he previously retained Jenkins due to Jenkins's inability to progress on or otherwise complete the goals of the representation.

81. In or around May and August 2008, Rogers's new counsel contacted Jenkins seeking a copy of Rogers's complete client file.

82. Jenkins failed to timely respond to Rogers's new counsel's requests and failed to provide Rogers or Rogers's new counsel with a copy of Rogers's client file.

83. In or around January 2008, Paul Francis and Linnea McAden ("Francis") retained Jenkins for representation in a civil matter. Francis paid Jenkins for the representation.

84. After Francis explained the need for urgency in the matter, Jenkins promised to contact opposing counsel the next business day.

85. Jenkins failed to contact opposing counsel as agreed.

86. Throughout the course of the representation, Jenkins failed to respond to Francis's requests for information, failed to provide substantive and useful updates to Francis regarding his case, and otherwise failed to maintain adequate communication with Francis.

87. In or around March 2008, Francis contacted opposing counsel directly and was informed Jenkins had never contacted opposing counsel.

88. Francis subsequently attempted to speak with Jenkins about the matter, but Jenkins did not respond to Francis's inquiries. Francis then terminated Jenkins's representation.

89. Jenkins's assistant indicated to Francis that Jenkins would fully refund Francis's paid legal fee.

90. Jenkins did not initially refund Francis's paid legal fee as promised.

91. Francis subsequently filed a small claims action against Jenkins in 2009, at which point Jenkins eventually refunded the full amount of the previously paid legal fee.

92. On or about 5 June 2008, before filing the small claims action, Francis filed a fee dispute petition with the State Bar against Jenkins, fee dispute petition no. 08FD0344.

93. On or about 5 June 2008, the State Bar sent a Notification of Mandatory Fee Dispute Resolution to Jenkins regarding fee dispute petition no. 08FD0344. Jenkins responded to the Notification on 24 June 2008.

94. On or about 27 June 2008 and 7 August 2008, the State Bar requested further information from Jenkins regarding his response to the Notification of Mandatory Fee Dispute Resolution concerning fee dispute petition no. 08FD0344.

95. Jenkins failed to respond to the State Bar's follow up letters of 27 June 2008 and 7 August 2008.

96. On or about 21 January 2009, Francis filed a grievance with the State Bar against Jenkins, grievance file no. 09G0120.

97. On or about 19 February 2009, the State Bar sent a Letter of Notice to Jenkins by certified mail regarding grievance file no. 09G0120. Jenkins accepted this Letter of Notice on 23 February 2009 and was required to respond to the Letter of Notice within fifteen days of receiving the letter.

98. Jenkins failed to respond to the Letter of Notice within the fifteen day period as required.

99. On or about 24 March 2009, the State Bar sent a follow up letter to Jenkins regarding the Letter of Notice for grievance file no. 09G0120 requesting a response be received by 3 April 2009.

100. Jenkins failed to respond to the State Bar's 24 March 2009 follow-up letter within the time period provided.

101. On or about 6 April 2009, Jenkins submitted his response to the Letter of Notice regarding grievance file no. 09G0120.

102. On or about 9 April 2008, Ronald and Kay Isserman ("the Issermans") retained Jenkins for representation in a civil matter. The Issermans paid Jenkins \$10,000.00 for the representation.

103. After the representation began, Jenkins indicated he would forward documents to the Issermans for their signature. Jenkins failed to forward the documents as stated.

104. In or around July 2008, Jenkins informed the Issermans that he had filed a complaint on their behalf.

105. Jenkins did not file a complaint on the Issermans' behalf as claimed.

106. Jenkins misled the Issermans regarding the status of their case and the work Jenkins had completed on the Issermans' matter.

107. The Issermans terminated Jenkins's representation and requested a partial refund. Jenkins did not refund any portion of the Issermans' paid legal fee.

108. After the Issermans terminated the representation, Jenkins scheduled three separate appointments to discuss this matter with the Issermans but later cancelled each appointment.

109. Throughout the course of the representation, Jenkins failed to respond to the Issermans' requests for information, failed to provide substantive and useful updates to the Issermans regarding their case, and otherwise failed to maintain adequate communication with the Issermans.

110. On or about 25 February 2009, the Issermans filed a grievance with the State Bar against Jenkins, grievance file no. 09G0224.

111. On or about 26 February 2009, the State Bar sent a Letter of Notice to Jenkins regarding grievance file no. 09G0224. Jenkins accepted this Letter of Notice on 3 March 2009 and was required to respond to the Letter of Notice within fifteen days of receiving the letter.

112. Jenkins failed to respond to the Letter of Notice within the fifteen day period as required.

113. On or about 6 April 2009 Jenkins submitted his response to the Letter of Notice regarding grievance file no. 09G0224.

114. In or around 2007, Robert Putnam ("Putnam") retained Jenkins for representation in an estate matter. Putnam paid Jenkins \$2,500.00 for the representation.

115. Jenkins did not file Putnam's claim with the estate as instructed.

116. Putnam repeatedly requested a refund of his paid legal fee.

117. In or around January 2009, Jenkins agreed to issue a full refund plus interest to Putnam in the form of three separate installments.

118. Jenkins failed to make any of the agreed upon payments or otherwise refund Putnam's paid legal fee.

119. In or around August 2009, Pamela Cairnes (“Cairnes”) retained Jenkins for representation in a dispute with a bank. Cairnes paid Jenkins for the representation.

120. Pursuant to Cairnes’s request, Jenkins stated he would send the bank a letter on Cairnes’s behalf expressing her dispute and demanding a remedy.

121. Jenkins subsequently provided Cairnes with a copy of a letter dated 1 September 2009 that Jenkins claimed to have sent to the bank.

122. Jenkins did not send the letter dated 1 September 2009 to the bank as claimed.

123. Jenkins misled Cairnes regarding the status of her case and the work Jenkins had completed on Cairnes’s matter.

124. Throughout the course of the representation, Jenkins failed to respond to Cairnes’s requests for information, failed to provide substantive and useful updates to Cairnes regarding her case, and otherwise failed to maintain adequate communication with Cairnes.

125. On or about 11 March 2010, Cairnes filed a grievance with the State Bar against Jenkins, grievance file no. 10G0242. The State Bar sent a Letter of Notice to Jenkins regarding grievance no. 10G0242, and Jenkins submitted a response to the Letter of Notice on 7 June 2010.

126. Jenkins informed the State Bar that he had sent the letter dated 1 September 2009 to the bank on Cairnes’s behalf.

127. Jenkins did not send the letter dated 1 September 2009 as claimed.

128. In or around November 2006, R.L. Franklin (“Franklin”) retained Jenkins for representation in a domestic matter. Franklin paid Jenkins for the representation.

129. In late 2006, Franklin instructed Jenkins to file a petition for divorce.

130. In or around late 2006 or early 2007, Jenkins falsely informed Franklin that he filed a petition for divorce on Franklin’s behalf.

131. Jenkins did not file a petition for divorce on Franklin’s behalf as claimed until 15 September 2009.

132. Jenkins misled Franklin regarding the status of his case and the work Jenkins had completed on Franklin’s matter.

133. Throughout the course of the representation, Jenkins repeatedly provided Franklin with fictitious court dates and false updates about the status of Franklin’s case.

134. Throughout the course of the representation, Jenkins failed to respond to Franklin's requests for information, failed to provide substantive and useful updates to Franklin regarding his case, and otherwise failed to maintain adequate communication with Franklin.

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, Mark L. Jenkins, and the subject matter of this proceeding.
2. Jenkins'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 file a complaint or otherwise pursue Watkinson's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
 - (b) By failing to accurately respond to Watkinson's inquiries and otherwise keep Watkinson informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
 - (c) By providing Watkinson with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
 - (d) By failing to timely respond to the State Bar's 30 July 2008 follow-up letter regarding grievance file no. 08G0058, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
 - (e) By failing to consult with Sutton before voluntarily dismissing his lawsuit in 2010, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2);
 - (f) By failing to file a complaint or otherwise meaningfully pursue Sutton's matter, and by allowing the statute of limitations to expire in Sutton's matter, Jenkins failed to act with reasonable diligence and promptness in

representing a client in violation of Rule 1.3 and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

- (g) By failing to accurately respond to Sutton's inquiries and otherwise keep Sutton informed about the status of his case, and by assuring Sutton a complaint had been filed when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (h) By failing to refund any unearned portion of Sutton's paid legal fee, Jenkins failed to take steps to the extent reasonably practicable to protect his client's interests upon termination of representation in violation of Rule 1.16(d);
- (i) By falsely informing Sutton that the complaint had been filed in the matter when in fact it had not been filed, and by providing Sutton with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
- (j) By failing to take the steps necessary to prevent Teaster's matter from being dismissed or otherwise diligently pursue Teaster's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (k) By failing to timely and accurately respond to Teaster's inquiries and otherwise keep Teaster informed about the status of his case, by assuring Teaster that service had been perfected when it had not, and by failing to inform Teaster that his case had been dismissed, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (l) By collecting additional legal fees and leading Teaster to believe the additional legal fees were necessary to pursue a pending case when the case had previously been dismissed, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a) and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c);

- (m) By falsely informing Teaster that service had been perfected when in fact it had not, and by providing Teaster with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
- (n) By failing to take the steps necessary to prevent Brown's matter from being dismissed or otherwise diligently pursue Brown's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (o) By failing to timely and accurately respond to Brown's inquiries and otherwise keep Brown informed about the status of her case, and by assuring Brown that service had been perfected when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (p) By falsely informing Brown that service had been perfected when in fact it had not, and by providing Brown with fictitious court dates and false status updates regarding her case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
- (q) By failing to consult with the Pitts before voluntarily dismissing their claim in 2009, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2);
- (r) By failing to respond to the Pitts' inquiries and otherwise keep the Pitts informed about the status of their case, Jenkins failed to keep his clients reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (s) By failing to consult with Rogers before voluntarily dismissing his claim in 1999, Jenkins failed to consult with his client as to the means by which the client's objective was to be accomplished in violation of Rules 1.2(a) and 1.4(a)(2);

- (t) By failing to diligently pursue Rogers's matter for a period of at least ten years, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (u) By failing to accurately respond to Rogers's inquiries and otherwise keep Rogers informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (v) By informing Rogers that his dispute had been settled and by having Rogers execute alleged settlement agreements when in fact no settlement had been reached in the matter, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
- (w) By failing to contact opposing counsel in the matter or otherwise pursue Francis's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (x) By failing to accurately respond to Francis's inquiries and otherwise keep Francis informed about the status of his case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (y) By failing to timely respond to the State Bar's 5 June 2008 Notification of Mandatory Fee Dispute Resolution and by failing to respond to the State Bar's 27 June 2008 and 7 August 2008 follow-up letters regarding fee dispute petition no. 08FD0344, Jenkins failed to participate in good faith in the fee dispute process in violation of Rule 1.5(f);
- (z) By failing to timely respond to the State Bar's 19 February 2009 Letter of Notice regarding grievance file no. 09G0120, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (aa) By failing to file a complaint or otherwise pursue the Issermans' matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (bb) By failing to accurately respond to the Issermans' inquiries and otherwise keep the Issermans informed about the status of their case, and

by assuring the Issermans a complaint had been filed when it had not, Jenkins failed to keep his clients reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);

- (cc) By failing to provide the legal services for which he was retained and for which he collected a \$10,000.00 fee, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a);
- (dd) By failing to refund any unearned portion of the Issermans' paid legal fee, Jenkins failed to take steps to the extent reasonably practicable to protect his clients' interests upon termination of representation in violation of Rule 1.16(d);
- (ee) By falsely informing the Issermans that the complaint had been filed in the matter when in fact it had not been filed, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c);
- (ff) By failing to timely respond to the State Bar's 26 February 2009 Letter of Notice regarding grievance file no. 09G0224, Jenkins failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (gg) By failing to refund any unearned portion of Putnam's paid legal fee, Jenkins collected a clearly excessive fee in violation of Rule 1.5(a) and failed to take steps to the extent reasonably practicable to protect his client's interests upon termination of representation in violation of Rule 1.16(d);
- (hh) By failing to pursue Cairnes's interests in her dispute with the bank, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;
- (ii) By failing to accurately respond to Cairnes's inquiries and otherwise keep Cairnes informed about the status of her case, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b);
- (jj) By falsely informing Cairnes and the State Bar that the 1 September 2009 letter had been sent when in fact it had not, Jenkins engaged in

conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c) and knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a);

(kk) By failing to file a divorce petition as instructed for nearly three years or otherwise meaningfully pursue Franklin's matter, Jenkins failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

(ll) By failing to accurately respond to Franklin's inquiries and otherwise keep Franklin informed about the status of his case, and by assuring Franklin a divorce petition had been filed when it had not, Jenkins failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(4), and failed to explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(b); and

(mm) By falsely informing Franklin that the divorce petition had been filed in the matter when in fact it had not been filed, and by providing Franklin with fictitious court dates and false status updates regarding his case, Jenkins engaged in conduct involving dishonesty, deceit or misrepresentation in violation of Rule 8.4(c).

Based upon the evidence presented at the hearing, the hearing panel also finds by clear, cogent, and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant's conduct – to wit: widespread and severe neglect of client matters, failure to adequately communicate with his clients, failure to resolve the matters for which he was retained, failure to return unearned legal fees, and repeated misrepresentations to his clients regarding the true status of his clients' legal matters – caused significant harm to his clients by impairing or extinguishing his clients' ability to achieve the goals of the representation and by causing their loss of paid legal fees without Defendant making any progress on their legal matters.

2. Defendant's conduct not only harmed his clients' ability to resolve their legal matters but also demonstrated an ongoing pattern of neglectful conduct, elevation of Defendant's interests above those of his clients, and a dishonest or selfish motive in that Defendant sought to gain, maintain, and benefit from his clients' confidence by making false representations to them.

3. Defendant's conduct demonstrates an intentional and sometimes impulsive pattern of misrepresentations to his clients concerning the true status of their legal

matters, and Defendant never made any attempt to correct his misrepresentations. Defendant's intentional misrepresentations resulted in foreseeable harm to his clients and reflect Defendant's lack of honesty, trustworthiness, or integrity.

4. Defendant's conduct caused significant harm to the legal profession. Defendant's neglect, failure to communicate with clients, failure to resolve the matters for which he was retained, and repeated misrepresentations regarding the true status of his clients' legal matters caused his clients, who were vulnerable because they were unfamiliar with the legal process and relied upon Defendant to protect their legal rights, to feel their trust had been betrayed. Nearly all of Defendant's former clients expressed a sense of distrust of the legal profession in general due to Defendant's conduct.

5. Defendant's habitual neglect of his clients' matters has the potential to cause significant harm to the standing of the legal profession in the eyes of the public because it shows his disregard for his 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.

6. Defendant's conduct caused significant harm to the public and to the administration of justice by unnecessarily delaying resolution of his clients' pending cases and subjecting the cases to procedural resolution, rather than substantive or merit-based resolution. Justice is achieved when all matters subjected to litigation are resolved on their merits and not as a result of procedural problems such as those created by Defendant.

7. Defendant's conduct caused significant harm to the public and to the administration of justice by placing a significant and unnecessary burden on the Haywood County Clerk of Court's office. Defendant's misrepresentations and client neglect caused significant confusion and frustration amongst his clients, leading his clients to inquire of and complain to the Clerk's office frequently over the course of at least two years. As of the date of this hearing, the Clerk's office continues to receive such inquiries and complaints.

8. In addition to his failure to timely respond to inquiries from the State Bar during the fee dispute and grievance processes, Defendant failed to appear at the hearing in this matter and failed to appear for duly-noticed depositions of witnesses that took place over two days in Defendant's home county. Defendant's conduct demonstrates a continued refusal to participate in the self-regulation process and a refusal to acknowledge the wrongful nature of his conduct. Such conduct interferes with the State Bar's ability to regulate its members and undermines the profession's privilege to remain self-regulating.

9. In 2006, the North Carolina State Bar Grievance Committee issued an admonition to Defendant for failing to adequately communicate with a client.

10. Defendant is a danger to the public due to his continued neglect of client matters, repeated and intentional misrepresentations, and ongoing refusal to participate in the self-regulation process. Defendant's inability or unwillingness to comply with the Rules of Professional Conduct requires this panel to impose discipline upon Defendant as the only means to adequately acknowledge the wrongfulness of his conduct and protect the public.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the hearing panel 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 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 determines the following factors are applicable:

- a. Defendant's prior disciplinary offense;
- b. A dishonest or selfish motive on Defendant's part;
- c. Defendant's pattern of misconduct;
- d. Defendant engaged in multiple offenses;
- e. Defendant's refusal to acknowledge the wrongful nature of his conduct;
- f. The vulnerability of the victims; and
- g. Defendant's substantial experience in the practice of law.

2. The hearing panel has carefully considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(2) of the Rules and Regulations of the North Carolina State Bar and determines Defendant has engaged in the following conduct that compel consideration of and warrants disbarment:

- a. Acts of dishonesty, misrepresentation, deceit, or fabrication; and
- b. Impulsive acts of dishonesty, misrepresentation, deceit, or fabrication without timely remedial efforts.

3. The hearing panel has 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 determines the following factors have been established and warrant disbarment:

- a. Defendant's intent to commit acts where the harm or potential harm was foreseeable;

- b. Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;
- c. Elevation of Defendant's own interests above that of his clients;
- d. Defendant's conduct had a negative impact on his clients' and the public's perception of the legal profession;
- e. Defendant's conduct had a negative impact on the administration of justice;
- f. Defendant's conduct impaired each client's ability to achieve the goals of the representation;
- g. Defendant's conduct had a negative effect on third parties; and
- h. Defendant's conduct consisted of acts of dishonesty, misrepresentation, deceit, and fabrication.

4. The hearing panel has considered all other forms of discipline and concludes that any sanction less than disbarment 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.

5. Due to the nature and extent of Defendant's conduct, the significant harm caused by Defendant's conduct, and the significant potential harm caused by Defendant's conduct, and in the interest of protecting clients, the public, the administration of justice, and the profession, this panel finds and concludes that disbarment is the only discipline that will adequately protect clients, the public, the administration of justice, and the profession from future transgressions by Defendant.

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

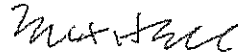
ORDER OF DISCIPLINE

1. Defendant, Mark L. Jenkins, is hereby DISBARRED from the practice of law in North Carolina.

2. Jenkins shall submitted his license and membership card to the Secretary of the North Carolina State Bar no later than thirty (30) days following the date that this Order is served upon him. Jenkins shall comply with the wind down provisions contained in Rule .0124 of the North Carolina State Bar Discipline and Disability Rules, located at 27 N.C.A.C. 1B § .0124.

3. All applicable administrative fees and costs of this action, including but not limited to deposition costs and travel expenses incurred by the witnesses, are taxed against Defendant.

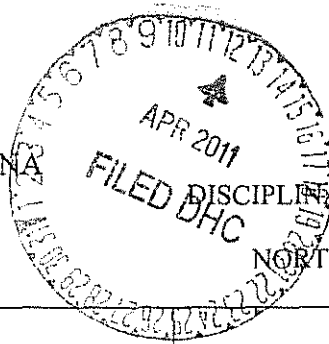
Announced at the conclusion of the hearing on March 31, 2011 and signed by the Chair with the consent of the other hearing panel members, this the 12th day of April, 2011.



M. H. Hood Ellis, Chair
Disciplinary Hearing Panel

STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 41

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

MARK L. JENKINS, Attorney,

Defendant

ADDENDUM TO ORDER OF
DISCIPLINE

NOW COMES the hearing panel of the Disciplinary Hearing Commission composed of M. H. Hood Ellis, Chair, Theodore C. Edwards, II and Karen B. Ray assigned in this matter on its own motion and notes that after the 31 March 2011 hearing and decision of the hearing panel but before the Findings of Fact, Conclusions of Law, and Order of Discipline had been reduced to writing and entered, the hearing panel received the sad news that Defendant Mark L. Jenkins had passed away. Because Mark L. Jenkins is now deceased, the discipline imposed by the Order of Discipline is moot and accordingly, this proceeding should be and is hereby abated. With appropriate consideration for the family of Mark L. Jenkins, Plaintiff may, in its discretion, pursue any legal remedies to recover the costs of this proceeding against Defendant's estate.

12th Signed by the Chair with the consent of the other hearing panel members this the
day of April, 2011.

M. H. Hood Ellis, Chair
Disciplinary Hearing Panel