

NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
16 DHC 26

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
SCOTT C. DORMAN, Attorney,)
Defendant)

ORDER OF DISCIPLINE

The matter was heard on August 24, 2017 before a Hearing Panel of the Disciplinary Hearing Commission composed of Fred M. Morelock, Chair, David W. Long, and Christopher R. Bruffey. Deputy Counsel Mary D. Winstead represented Plaintiff, the North Carolina State Bar. Defendant, Scott C. Dorman, was represented by Kenneth Robert Davis. Defendant was properly served with process and the hearing was held with due notice to all parties.

On August 23, 2017, the Hearing Panel in this matter entered an order of summary judgment, determining that there was no genuine issue of material fact as to any of the factual allegations in the Amended Complaint and concluding as a matter of law that the established facts were sufficient to support the violations of the Rules of Professional Conduct alleged in the Amended Complaint. The Hearing Panel reserved for hearing the issue of what discipline was appropriate.

Based on the record and the evidence presented in support of the State Bar's motion for summary judgment, the Hearing Panel concludes that there is no genuine issue of material fact with respect to the following:

FACTS

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, Scott C. Dorman, was admitted to the State Bar in August 1991 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 Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in the State of North Carolina and maintained a law office in Whiteville, Columbus County, North Carolina.

4. On or around March 20, 2014, Buffy C. Sanders ("Sanders") retained Defendant to represent him on a speeding citation, Columbus County file number 14IF701219.

5. Sanders paid Defendant \$438.00 by personal money order which included Defendant's fee, any fine, and court costs.

6. Defendant maintained a trust account for his law practice with BB&T ending in digits 6572.

7. Defendant did not deposit the \$438.00 received from Sanders into his trust account.

8. Defendant informed Sanders that he would take care of the matter and that Sanders did not need to appear in court.

9. Sanders' case was initially scheduled for April 22, 2014 in Columbus County District Court.

10. Neither Sanders nor Defendant appeared in court on April 22, 2014 and Sanders was called and failed.

11. On or about May 19, 2014, Sanders received notice from the North Carolina Department of Motor Vehicles ("DMV") that his license would be suspended for failure to appear in court if he did not comply with the citation prior to July 18, 2014.

12. On or about May 23, 2014, Sanders wrote a letter to Defendant informing him that he had received the notice from DMV and asking him how to rectify the situation.

13. Sanders travelled to Columbus County and met with Defendant.

14. Defendant informed Sanders that he missed Sanders' April 22, 2014 court date because he was out of town.

15. Defendant told Sanders that he would get another court date scheduled.

16. On or about June 9, 2014, Defendant submitted to the court a motion to strike the called and failed and set aside the bond forfeiture, and the court allowed the motion.

17. Sanders' case was rescheduled for August 5, 2014.
18. Sanders attended court with Defendant on August 5, 2014 and admitted responsibility to an improper equipment charge. Sanders was ordered to pay the costs.
19. Defendant informed Sanders on August 5, 2014 that everything was taken care of concerning the citation.
20. Defendant did not pay Sanders' court costs.
21. Defendant misappropriated Sanders' entrusted funds.
22. On or about January 6, 2015, Sanders received another notice from DMV informing him that his license would be suspended for failure to comply if he did not comply with the citation prior to March 7, 2015.
23. Sanders returned to the Columbus County Courthouse and was informed that his court costs for the citation had not been paid and that \$308.00 was due by March 7, 2015.
24. Sanders was provided a phone number for Defendant, who had relocated to Las Vegas, Nevada, and tried to reach Defendant by phone.
25. Sanders left a message for Defendant, but Defendant did not return the call.
26. On February 29, 2015, Sanders paid the Columbus County Clerk of Court \$308.00 which included a \$50.00 fee for failure to comply.
27. On or about February 9, 2015, Sanders filed a petition for fee dispute with the State Bar's Fee Dispute Resolution Program.
28. On or about February 9, 2015, the State Bar sent Defendant a Notice of Mandatory Fee Dispute Resolution in file number 15FD0062 by certified mail to 11908 Red Camellia Ave, Las Vegas, Nevada, 89138, which was the address listed for Defendant in the State Bar Membership database.
29. On or about February 12, 2015, Defendant informed the Director of the Fee Dispute Resolution Program that he was not disputing the fee and that he would issue a refund to Sanders.
30. Defendant did not refund any monies to Sanders.
31. On or about February 18, 2015, the State Bar opened a grievance file in connection with Defendant's representation of Sanders, grievance file number 15G0148.

32. The State Bar mailed a Letter of Notice to Defendant by certified mail to 11908 Red Camellia Ave, Las Vegas, Nevada, 89138, which was the address listed for Defendant in the State Bar Membership database.

33. An individual with the last name "Dorman" at Defendant's address of record signed for the letter on June 5, 2015.

34. Defendant was required to respond to the Letter of Notice within fifteen days of service of the Letter of Notice.

35. Defendant failed to respond to the Letter of Notice.

36. On or about July 1, 2015, State Bar Deputy Counsel sent Defendant a follow up letter requesting that he respond to the Letter of Notice no later than July 10, 2015.

37. Defendant failed to respond to the Letter of Notice.

38. In March 2007, Defendant filed a complaint for divorce on behalf of Larry Abel ("Abel") as plaintiff and naming Abel's wife as the defendant, Columbus County file number 07CV00371.

39. Defendant also had a summons issued for Abel's wife.

40. The complaint and summons were delivered to the sheriff's department for service and were returned unserved.

41. Thereafter, in April 2007, Abel's wife went to Defendant's office and signed a document prepared by Defendant which was an acceptance of service of the complaint and waiver of the time limitations within which to answer the complaint.

42. Defendant also prepared a motion for summary judgment and an acceptance of service and waiver.

43. Abel's wife signed the acceptance of service and waiver which stated that she was served with the motion for summary judgment, waived notice requirements, and joined the plaintiff in asking the court to grant summary judgment for the plaintiff.

44. Abel's wife was not represented by counsel when she signed the documents described in paragraphs 41 through 43 above.

45. Defendant did not take any further court action regarding Abel's divorce.

46. Defendant did not file a motion to withdraw as counsel for Abel.

47. In 2015, Abel discovered that he was not divorced.

48. Abel contacted the State Bar's Attorney-Client Assistance Program ("ACAP") about this matter in 2015.

49. An ACAP staff member left a phone message for Defendant on May 27, 2015, but Defendant did not return the call.

50. The State Bar opened a grievance file in connection with Abel's complaint against Defendant, grievance file number 15G1162.

51. The State Bar mailed a Letter of Notice to Defendant by certified mail to 11908 Red Camellia Ave, Las Vegas, Nevada, 89138, which was the address listed for Defendant in the State Bar Membership database.

52. An individual with the last name "Dorman" at Defendant's address of record signed for the letter on June 5, 2015.

53. Defendant was required to respond to the Letter of Notice within fifteen days of service of the Letter of Notice.

54. Defendant failed to respond to the Letter of Notice.

As set forth in the August 23, 2017 order of summary judgment, the Hearing Panel made the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Hearing Panel and the panel has jurisdiction over Defendant, Scott C. Dorman, and over the subject matter.

2. Defendant's conduct constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- (a) By failing to appear in court on Sanders' first scheduled court date, Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3;
- (b) By informing Sanders on August 5, 2014 that everything concerning his citation was taken care of when Defendant had not paid Sanders' court costs, and by informing the Director of the Fee Dispute Program that he would issue a refund to Sanders when he did not do so, Defendant engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (c) By failing to pay Sanders' costs to the Clerk of Court, Defendant failed to promptly pay or deliver to the client, or to third persons as directed by the client, entrusted property belonging to the client in violation of Rule 1.15-2(m), used entrusted property for personal benefit or for a person other than the legal or beneficial owner of the property in violation of Rule 1.15-2(j);

engaged in a criminal act (embezzlement) that reflects adversely on Defendant's honesty, trustworthiness, or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation in violation of Rule 8.4(c), and engaged in conduct that was prejudicial to the administration of justice in violation of Rule 8.4(d);

- (d) By failing to respond to the Letter of Notice in this matter, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b);
- (e) By failing to respond to Sanders' call regarding his case, Defendant failed to keep his client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3) and failed to promptly comply with a reasonable request for information in violation of Rule 1.4(a)(4);
- (f) By failing to deposit the funds received from Sanders into his trust account, Defendant failed to safeguard entrusted funds in violation of Rules 1.15-2(a) & (b) and failed to deposit mixed funds intact in violation of Rule 1.15-2(g);
- (g) By failing to complete Abel's divorce case, Defendant failed to act with reasonable diligence in representing a client in violation of Rule 1.3;
- (h) By preparing documents for the unrepresented opposing party's signature in which the opposing party waived the time within which to answer and consented to summary judgment, Defendant gave legal advice to an unrepresented person in violation of Rule 4.3; and
- (i) By failing to respond to the Letter of Notice, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b).

Based upon the foregoing and the additional evidence regarding discipline presented at the hearing, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Dorman did not respond to Sanders' May 23, 2014 letter referred to in paragraph 12.
2. After Dorman failed to respond to his letter and approximately four other times, Sanders travelled from Fayetteville, NC to Whiteville, NC, which was about an hour away, looking for Dorman in connection with his speeding case.
3. On August 5, 2014, Sanders spent all day in court waiting to see that his case was resolved.

4. After Dorman failed to refund Sanders' funds in response to the fee dispute claim, Sanders filed a claim with the State Bar's Client Security Fund.
5. Sanders travelled to the State Bar's quarterly meeting in Blowing Rock in July 2016 to attend the meeting of the Client Security Fund Board.
6. The Client Security Fund Board awarded Sanders \$238.00.
7. When Sanders received the second notification from DMV that his license was in danger of being suspended, he complied with the requirements by paying the court costs, including the failure to comply costs, before the stated deadline. As a result of Sanders' attention to the notification and his effort to resolve the matter, his license was not actually suspended.
8. Sanders' negative experience with Dorman has affected how he will deal with attorneys in the future.
9. Abel has known Dorman since Dorman was a child and trusted him to handle his divorce from Tammy Abel.
10. Abel, believing that Dorman had completed his divorce case, remarried in 2007.
11. In 2015, Abel, a Vietnam Veteran, contacted the Veterans Administration regarding his benefits and learned that he was not divorced from Tammy Abel.
12. Abel contacted Dorman in 2015 and Dorman assured him that he would take care of the matter.
13. Dorman did not do anything to rectify Abel's situation.
14. As a result of Dorman's failure to complete Abel's divorce, Abel's financial situation is significantly impacted.
15. Dorman's misconduct has also impacted Tammy Abel and the woman Abel married in 2007.
16. On February 7, 2017, the Chair of the Hearing Panel entered an Order Granting Plaintiff's Motion to Compel Discovery and ordered that Dorman comply by February 21, 2017.
17. Dorman's failure to respond to inquiries from the State Bar demonstrates a refusal to participate in the self-regulation process. Such conduct interferes with the State Bar's ability to regulate its members and undermines the profession's privilege to remain self-regulating.

18. Dorman failed to comply with the Order Granting Plaintiff's Motion to Compel, further demonstrating his disregard towards the self-regulation process.

19. On May 3, 2017, the State Bar served an Amended Complaint in this matter on Dorman.

20. Dorman did not file an Answer to the Amended Complaint, further demonstrating his disregard towards the self-regulation process.

21. Dorman attended the DHC hearing, but did not testify or offer any evidence explaining his misconduct.

22. In March 2005, Defendant received prior discipline in the form of an Admonition for creating an unjustified expectation about results in a solicitation letter in violation of Rule 7.1(a)(2).

23. Dorman's neglect, failure to communicate, failure to resolve the matter for which he was retained, and misappropriation of entrusted client funds caused harm and had the potential to significantly harm his client, Sanders.

24. Dorman's neglect of and failure to resolve Sanders' speeding case caused additional judicial resources to be expended thus causing harm to the administration of justice.

25. Dorman's failure to complete Abel's divorce case caused significant harm to Abel and his financial situation.

26. Dorman's neglect of his clients' matters and misappropriation of funds 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.

27. Dorman's embezzlement of Sanders' funds reflects adversely on his honesty, trustworthiness or fitness as a lawyer and caused significant potential harm to the profession in that criminal conduct by attorneys tends to bring the legal profession into disrepute. Such erosion of public confidence in attorneys tends to damage 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.

28. The Hearing Panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

Based on the established facts and Conclusions of Law above and the additional Findings of Fact Regarding Discipline, the Hearing Panel makes 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 § .0116(f)(1)¹ of the Rules and Regulations of the North Carolina State Bar and concludes that the following factors are present:

- (B) Intent of the defendant to commit acts where the harm or potential harm is foreseeable;
- (C) Circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity;
- (D) Elevation of the defendant's own interest above that of the client;
- (E) Negative impact of defendant's actions on client's or public's perception of the profession;
- (F) Negative impact of the defendant's actions on the administration of justice;
- (G) Impairment of the client's ability to achieve the goals of the representation;
- (H) Effect of defendant's conduct on third parties;
- (I) Acts of dishonesty, misrepresentation, deceit, or fabrication; and
- (J) Multiple instances of failure to participate in the legal profession's self-regulation process.

2. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0116(f)(2) of the Rules and Regulations of the North Carolina State Bar and concludes that the following factors are present:

- (A) Acts of dishonesty, misrepresentation, deceit, or fabrication;
- (C) Misappropriation or conversion of assets of any kind to which the defendant or recipient is not entitled, whether from a client or any other source; and
- (D) Commission of a felony.

¹ 27 N.C.A.C. 1B § .0114(w) was renumbered as 27 N.C.A.C. 1B § .0116(f). This amendment was published in the Supreme Court Reports on August 21, 2017.

3. The Hearing Panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0116(f)(3) of the Rules and Regulations of the North Carolina State Bar and concludes the following factors are present:

- (A) Prior discipline in the form of an Admonition issued in 2005;
- (B) Remoteness of prior offense;
- (C) Dishonest or selfish motive,
- (D) Indifference to making restitution;
- (E) A pattern of misconduct;
- (F) Multiple offenses;
- (R) Vulnerability of victim; and
- (S) Degree of experience in the practice of law;

4. The Hearing Panel has considered lesser alternatives and finds that a censure, reprimand, admonition or suspension would not be sufficient discipline because of the gravity of the actual significant harm Defendant's conduct caused to his clients, the public, the administration of justice, and the legal profession.

5. The Hearing Panel has considered all lesser sanctions and finds that discipline short of disbarment would not adequately protect the public, the profession and the administration of justice for the following reasons:

- (a) The factors under Rule .0116(f)(2) that are established in this case are of a nature that support imposition of disbarment as the appropriate discipline;
- (b) Defendant committed a criminal act, embezzlement, that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) Defendant committed misdeeds involving moral turpitude and violations of his clients' trust. Violations involving misappropriation and dishonesty are among the most serious that an attorney can commit. Such offenses demonstrate that the offending attorney is not trustworthy. Clients are entitled to have trustworthy attorneys;
- (d) Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to attorneys and to the public regarding the conduct expected of members of the Bar of this state; and

- (e) The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, and the legal profession; 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 lawyers are required to make such a showing before they may resume practicing law.

Based upon the foregoing facts, findings and conclusions, the Hearing Panel hereby enters the following

ORDER OF DISCIPLINE

1. Defendant, Scott C. Dorman, is hereby DISBARRED from the practice of law.
2. Defendant shall surrender his law 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. Defendant shall pay the fees and the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the fees and costs within 30 days of service upon him of the statement of fees and costs by the Secretary.
4. Defendant shall comply with all provisions of 27 N.C. Admin. Code § 1B .0128 of the North Carolina State Bar Discipline & Disability Rules.

Signed by the Chair with the consent of the other Hearing Panel members, this the 12th day of September, 2017.



Fred M. Morelock, Chair
Disciplinary Hearing Panel