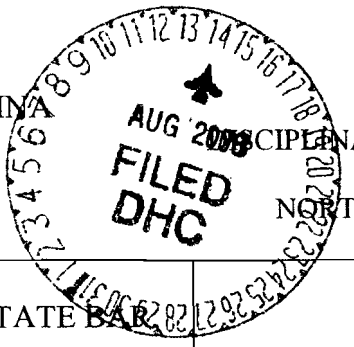

STATE OF NORTH CAROLINA WAKE COUNTY	BEFORE THE DISCIPLINARY HEARING COMMISSION OF THE NORTH CAROLINA STATE BAR 07 DHC 17
THE NORTH CAROLINA STATE BAR Plaintiff v. PAUL L. ERICKSON, Attorney, Defendant	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF DISCIPLINE

This matter was heard before a hearing committee of the Disciplinary Hearing Commission composed of M. Ann Reed, Chair; and members Donna R. Rascoe and R. Mitchel Tyler on June 26 and 27, 2008. William N. Farrell and Carmen K. Hoyme represented the North Carolina State Bar. Daniel R. Flebotte represented Paul L. Erickson. 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 has 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, Paul L. Erickson ("Erickson"), was admitted to the North Carolina State Bar on March 18, 1995, 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, Erickson actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Asheville, Buncombe County, North Carolina.

4. During 2004, Erickson began a relationship with Dale Scott Heineman ("Heineman") and Kurt F. Johnson ("Johnson"), who did business as the Dorean Group and were principles of the Dorean Group. The Dorean Group purported to assist consumers in eliminating their mortgage debts.

5. Heineman and Johnson, as the Dorean Group, used the internet to advertise a way for homeowners to "eliminate your mortgage."

6. The Dorean Group referred many of its customers to Erickson for advice and representation in litigation and foreclosure proceedings involving the customers' mortgage obligations. The Dorean Group paid or agreed to pay Erickson's legal fees for representing its customers that were referred to Erickson by the Dorean Group. Erickson also represented the Dorean Group and Heineman and Johnson in various lawsuits based on their mortgage elimination business. Erickson followed the directions and instructions of the Dorean Group in representing the clients referred to him by the Dorean Group.

7. During 2004, the Dorean Group operated websites at which it represented that, in exchange for substantial payments by a homeowner to the Dorean Group, the Dorean Group would provide a homeowner with documents and procedures that would allow the homeowner to eliminate the homeowner's mortgage without paying the underlying debt.

8. This "debt elimination scheme" was based, in part, on the theory that no enforceable debt accrues when financial institutions provide home mortgage loans to borrowers.

9. The process to "eliminate" their mortgage began when the borrower completed an application and paid the Dorean Group an application fee of between $1,000.00 and $3,000.00.

10. Once an application had been completed and the fee had been paid, the Dorean Group created a trust in which Heineman and Johnson were the trustees and the borrower was the beneficiary.

11. The borrower transferred his or her property interest to the trust, purportedly to provide Heineman and Johnson the authority to act on behalf of the borrower with respect to the property. The borrower did so by recording a "quit claim" deed to the trust in the Register of Deeds office in the county where the borrower's property was located.

12. The "quit claim" deed transferred control of the borrower's interest in the property to Heineman and Johnson.

13. After the "quit claim" deed had been recorded, the Dorean Group sent a "self-executing presentment packet" ("presentment packet") to the lender.

14. Included in this packet was a document entitled "Notice of Intent to Correct Title." This document purported to require the lender to answer within 10 days or the lender would be deemed to "tacitly assent" that Heineman and Johnson would act as the lender's agent and attorney in fact to "correct" title on the property that was security for the lender's loan.

15. Also included in the standard "presentment packet" was a document entitled "Specific Power of Attorney." The "Specific Power of Attorney" claimed the lender "by and through the doctrine of Agency by estoppel" appointed Heineman or Johnson as "Attorney-in-fact." The "Specific Power of Attorney" claimed to be self-executing based on the lenders' "non-response default." The document further claimed to grant Heineman and Johnson the power to "prepare and record all necessary documents for proper reconveyance," including "certificate of discharge, full reconveyance, substitution of trustee, assignment of note and/or deed."

16. The presentment packet also included an alleged "Subrogation and Security Bond." The alleged bond was essentially an offer to the lender to satisfy the borrower's indebtedness. In order to cash the bond the lender was required to prove that the lender's loan was valid to the satisfaction of Heineman and Johnson. If the lender failed to meet their burden the lender was purportedly liable for ten times the amount of the bond.

17. After the "presentment packet" was mailed to the lender and the lender took no action within 14 days, the Dorean Group recorded the following documents in the county where the mortgage property was located: (1) a "Specific Power of Attorney" (2) a "Substitute of Trustee" and (3) a "Full Reconveyance." Each of these documents was signed by Heineman or Johnson allegedly as "agent" and "attorney in fact" for the lender. The "Substitute of Trustee" purported to substitute Heineman and Johnson as the trustee under the deed of trust in favor of the lender. The "Full Reconveyance," which was recorded after the "Specific Power of Attorney" and "Substitute of Trustee," purported to transfer the lender's secured interest in the property back to the borrower.

18. The "Full Reconveyance" falsely averred that the lender had stated in writing that the borrowers' obligation had been fully paid and that the note and deed of trust had been surrendered to Heineman and/or Johnson, as Trustees, for cancellation.

19. Neither Heineman nor Johnson had authority from the lenders to appoint themselves as agents or attorneys in fact. The Dorean "mortgage elimination scheme" is fraudulent and has been described as such by various courts in *Kenny Family Trust v. World Savings Bank FSB, 2005 WL106792 (N.D. Cal 2005)*; *The National Bank of South Carolina v. Debra L Julian, William F. Julian, et al. (Civil Docket No. 3:04-cv-22447-MJP), U.S. District Court, District Court of South Carolina (Columbia)*; and *Household Realty Corp. v. Lambeth, N.C. App. (COA 07-362)*.

20. Erickson was first introduced to the Dorean Group's mortgage elimination scheme on or about June 2, 2004 in a meeting with Heineman, Johnson, and other attorneys from other states. Erickson expressed his personal skepticism about the scheme and discussed the real possibility of sanctions with other attorneys who were present at that meeting. Around June 28, 2004, Erickson learned that the South Carolina Board of Accountancy was investigating Todd Ellis; Swanson [sic]. Swanson was the author of the "Report from Certified Public Accountant," included in all the presentment packets. Erickson was on notice that Swanson was involved in an attempt to defraud lenders by

asserting the patently absurd notion that when a lender loans money to its borrower that it is the borrower who has actually loaned money to the lender. The Swanson report was an integral part of the Dorean mortgage elimination scheme. Erickson was further on notice of the fraudulent nature of the scheme when on August 2, 2004, Judge Charles B. Simmons, Jr., Master in Equity, advised Erickson, after receiving the Subrogation and Security Bond from Erickson in a foreclosure proceeding involving Mike Campbell, that he was considering turning the matter over to state law enforcement because he believed there may have been an attempt to perpetrate a fraud upon the Court. Judge Simmons also advised Erickson that he questioned the validity of the bond and the Dorean Group.

21. J.E.D. Lambeth ("Lambeth") was engaged in some capacity by the Dorean Group.

22. In May, 1997, Lambeth borrowed $249,237.00 from First National Bank of Reidsville.

23. The Lambeth loan was evidenced by a promissory note and secured by a deed of trust upon real property located at 3128 Vance Street Extension, Reidsville, North Carolina, which deed of trust is recorded at Book 957, Page 493 of the Rockingham County Registry. FNB Reidsville assigned the note and deed of trust to FNB Southeast.

24. In March, 2004, following the standard practice by the Dorean Group to eliminate his mortgage, Lambeth created the "Lambeth Family Trust" ("LFT") naming Heineman and Johnson as trustees and granting Heineman and Johnson power of attorney to prosecute and defend any and all clams against LFT.

25. On or about March 25, 2004 Lambeth recorded a "quit claim" deed transferring the subject property to Heineman and Johnson as trustees of the Lambeth Family Trust.

26. On or about April 23, 2004, Heineman and Johnson sent Dorean's "presentment packet" to FNB.

27. On June 10, 2004, Heineman signed a document entitled "Specific Power of Attorney" purporting to appoint himself as Attorney in Fact for FNB Southeast.

28. Heineman did not have authority from FNB Southeast to appoint himself Attorney in Fact for FNB Southeast.

29. Also on June 10, 2004, Heineman signed a document entitled "Substitution of Trustee" in which Heineman falsely represented that he was Attorney in Fact for FNB.

30. In the "Substitution of Trustee," Heineman also purported to appoint himself as substitute trustee under the deed of trust.

31. Heineman did not have authority from FNB Southeast to appoint himself Substitute Trustee.

32. On June 10, 2004, in his purported capacity as trustee under the deed of trust, Heineman signed a document entitled "Full Reconveyance," which falsely represented that the holder of the underlying indebtedness had been paid in full, that the holder of the underlying debt had requested that the substitute trustee indicate on the public record that the deed of trust had been surrendered for cancellation, and that in accordance with the request of the holder of the underlying indebtedness, the deed of trust was therefore canceled.

34. On August 12, 2004, FNB Southeast filed a civil action in Rockingham County Superior Court against Lambeth, LFT, Heineman and Johnson to collect on the promissory note, Rockingham County Superior Court file no. 04 CVS 1375 (hereinafter referred to as "the Lambeth lawsuit").

35. FNB sought judgment for the principal and interest owed on the note and injunctive relief to restrain Lambeth, Heineman and Johnson from taking any action to limit, impair, hinder or eliminate FNB's rights under the note and deed of trust.

36. On August 12, 2004, a temporary restraining order, to prohibit Lambeth, Heineman and Johnson from taking any action to limit, impair, hinder or eliminate FNB's rights, was entered by Superior Court Judge Melzer A. Morgan, Jr. Prior to entry of the order, information about the activities of Lambeth, Heineman and Johnson were brought to the attention of the Court. The Court observed that the position taken by Lambeth, Heineman and Johnson was extremely unusual. The Court noted again on August 24, 2004 that the position of Lambeth, Heineman and Johnson was extremely unusual. The Court observed that Rule 11 delineated what pleadings could be filed without liability for sanctions. Erickson participated in both hearings. Judge Morgan further indicated he might refer the matter to the Attorney General's Office. Erickson advised Lambeth, prior to the TRO hearing, to argue to Judge Morgan that the TRO should not be entered because FNB had accepted the Subrogation and Security Bond contained in the presentment packet, and therefore the bank agreed to discharge the note and deed of trust or agreed for Heineman and Johnson, as substitute trustees, to do so. The alleged bond was worthless and did not qualify as an actual bond. The alleged bond was an essential component of the fraudulent mortgage elimination scheme.

37. Heineman later recorded the "Substitution of Trustee," the "Full Reconveyance" and the "Specific Power of Attorney" in the Rockingham County Registry for the purposes of misleading the public, misleading the court and misleading a person doing a title search of the property into believing, in error, that there was no existing lien against the property. Recording of these documents took place in violation of a temporary restraining order.

38. On August 17, 2004 a foreclosure hearing in 04 SP 345 (Rockingham County) was held to foreclose on the deed of trust securing the Lambeth note.

39. Lambeth, Heineman, Johnson and/or the Dorean Group retained defendant to represent Lambeth's interest in the foreclosure proceeding.

40. In the foreclosure proceeding, Erickson falsely represented to the court that the deed of trust had been canceled and therefore the foreclosure action could not proceed, relying on the bond and the same arguments made to and rejected by Judge Morgan just five days earlier.

41. As support for these arguments, Erickson relied upon the "Substitution of Trustee," the "Full Reconveyance" and the "Specific Power of Attorney."

42. Erickson knew when he relied upon these false documents that Heineman had no authority to execute the "Substitution of Trustee," the "Full Reconveyance" and the "Specific Power of Attorney."

43. Erickson knew when he relied upon these documents that the "Substitution of Trustee," the "Full Reconveyance" and the "Specific Power of Attorney" were fraudulent documents and that the theories he argued were fraudulent and frivolous.

44. Erickson knew when he made the representations to the Clerk set forth above that the "Substitution of Trustee," the "Full Reconveyance" and the "Specific Power of Attorney" did not have the effect of legally canceling the deed of trust. Lambeth's note and deed of trust did not allow him to substitute any bond for his required payments to FNB.

45. Erickson knew when he made the representations set forth above that the representations were false.

46. Erickson made the false representations set forth above with the intention of misleading the court.

47. Erickson made the representations set forth above for the purpose of inducing the court to dismiss the foreclosure proceeding and for the purpose of preventing foreclosure of the deed of trust.

48. Erickson made these legal arguments with knowledge that the arguments were not supported by law or fact or by a good faith argument for the extension or modification of existing law.

49. Erickson made these legal arguments with knowledge that the arguments relied upon fraudulent documents.

50. In the Lambeth lawsuit, Erickson filed an answer, motions and counterclaim ("the pleadings") on behalf of Heineman and Johnson. Erickson also prepared the pleadings for Lambeth, who filed his pleadings *pro se*.

51. The pleadings filed by Erickson asserted, among other things, an entirely frivolous theory called the "vapor money" theory in which Erickson asserted that the debt evidenced by the promissory note was invalid because of the manner in which Erickson alleged FNB and the banking industry conducted its business. Any attorney licensed in

North Carolina would recognize that these defenses and counterclaims were entirely frivolous.

52. At the time Erickson filed the pleadings on behalf of Heineman and Johnson in the Lambeth litigation asserting the "vapor money" theory, Erickson was aware that several courts in other jurisdictions had expressly ruled that the "vapor money" theory was not supported by law or fact or by a good faith argument for the modification of law and had ruled that the "vapor money" theory was frivolous. In addition to the facts known to Erickson set out in paragraph 20 above, Erickson was served with a Motion to Strike Defenses and Dismiss Counterclaims with an accompanying memorandum of law, on October 7, 2004, in the Julian case (see Paragraph 19 above). Erickson later stated this document caused him to reevaluate his positions and beliefs concerning the Dorean mortgage elimination scheme. Erickson filed the pleadings in Lambeth on October 25, 2004.

53. At the time Erickson filed the pleadings asserting the "vapor money" theory, no court in the United States had accepted the "vapor money" theory as valid.

54. At the time Erickson filed the pleadings asserting the "vapor money" theory, Erickson was in possession of no credible facts and no law to support the validity of the theory.

55. At the time Erickson filed the pleadings asserting the "vapor money" theory, Erickson believed that the defense would not be accepted by any court.

56. Erickson filed the pleadings asserting the "vapor money" theory at the instruction of the Dorean Group and/or Heineman and Johnson, representatives of the Dorean Group. Use of the frivolous pleadings and defenses, in response to and in defense of foreclosure proceedings brought against various mortgagors involved in the mortgage elimination scheme, was an integral component of the Dorean scheme.

57. On February 22, 2005 the Court dismissed the counterclaim of Lambeth, Heineman and Johnson and entered judgment for FNB on the promissory note.

58. On March 1, 2005 the Superior Court of Rockingham County entered an order imposing sanctions under Rule 11 against Lambeth, Heineman and Johnson and Erickson for filing the frivolous and factually implausible counterclaim.

59. Erickson filed similar pleadings on behalf of Deborah L. Julian and William F. Julian in a foreclosure action in Greenville County, South Carolina, in an attempt to prevent the foreclosure of the deed of trust in that case. See paragraph 19 above.

60. The pleadings and theories used by Erickson in the Lambeth and Julian cases were supplied to him by Thomas Spielbauer ("Spielbauer"), an attorney for the Dorean Group, who represented the plaintiffs in the *Kenny Family Trust v. World Savings Bank FSB, 2005 WL106792 (N.D. Cal 2005).*

61. In each of these cases the pleadings were found to be frivolous and every theory put forth by Spielbauer and Erickson was summarily rejected by the presiding

judges. Erickson admitted on November 16, 2004 that it was his responsibility to review the pleadings he signed, but he had not done so and had only signed his name to them.

62. Spielbauer was sanctioned by the Court in the Kenny case and the matter was referred to the United States Attorney. Heineman and Johnson were sentenced to lengthy prison terms.

63. Erickson was sanctioned by the Court in the Lambeth case and the magistrate judge in the Julian case recommended that sanctions be considered against Erickson but sanctions were not awarded by the District Court.

64. Erickson asserted substantially similar contentions as those he had made in the Lambeth foreclosure proceeding and the separate Lambeth civil action on the note in litigation relating to the mortgages and foreclosures of the mortgages of Thomas E. Gust in 04 SP 4814 and Robert and Linda Stelley in 04 SP 6194, both of Mecklenburg County, North Carolina.

65. In both the Gust and Stelley foreclosure proceedings, Erickson filed the usual Dorean "presentment packet" as evidence to support his argument that the respective notes and deeds of trust had been satisfied. Erickson argued the same frivolous theories in the Stelley case as late as November 18, 2004, even though he learned on November 9, 2004 that the Court had dismissed the Kenny case and ordered Speilbauer to show cause why he should not be sanctioned; and even though Erickson admitted on November 16, 2008 that "no court" in which he had appeared considered the satisfaction of mortgage on behalf of the bank by Dorean as anything other than a fraudulent document. Erickson further admitted on November 16, 2004 that his suggestions that Dorean had established Heineman and Johnson as attorney(s)-in-fact or agents by estoppel and a bond "(which the two judges have even looked at it considered it unenforceable if not a joke...)" have resulted in stern warnings of Rule11 sanctions for arguing an untenable position. On November 18, 2004, the same day he was arguing the validity of the frivolous Dorean theories to the Clerk of Court in the Stelley case, Erickson filed motions to withdraw in the Julian and Sisk cases, stating that the pleadings he filed in those cases were not supported by law or fact.

66. The conduct of Erickson described above resulted in unnecessary expenditure of time and resources by FNB and other lenders and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew or should have known were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

67. Erickson engaged in the conduct described above for the purpose of assisting the Dorean Group in its mortgage elimination scheme. These actions delayed and harassed FNB and increased FNB's costs in pursuing its legitimate claim against Lambeth.

68. Erickson provided improper legal advice to Lambeth and asserted frivolous positions on Lambeth's behalf at the instruction of the Dorean Group.

69. Grover T. Braswell ("Braswell") sought Erickson's legal assistance in a dispute and subsequent litigation relating to his credit card debt with BB&T Bank.

70. Braswell was referred to Erickson by Stewart Tadlock, doing business as Debt Relief Services ("DRS"). Erickson had an arrangement with Tadlock that Tadlock would cover any fee at the rate of $50.00 per hour for any client referred to Erickson by DRS who did not pay Erickson.

71. Erickson undertook to represent Braswell in connection with a BB&T credit card debt on or about June 30, 2004.

72. Braswell's liability on the credit card exceeded $15,000.00.

73. There was never a legitimate dispute about the Braswell's liability for the BB&T credit card debt.

74. When BB&T sought payment on the account, DRS counseled and encouraged Braswell to interpose repeated challenges to the debt, including DRS' preparation for Braswell of a Notice of Dispute and Request for Documentary Evidence, a Demand for Arbitration, an Arbitration Claim, a request for Preliminary Hearing, and a Notice of Intent to Tender Partial Payment and Other Consideration as Satisfaction in Full. These documents and their use are seen in typical fraudulent debt elimination schemes.

75. BB&T was sent a settlement agreement by Braswell and DRS purporting to reflect a settlement of the credit card debt despite the fact BB&T had never agreed to the settlement purportedly set forth in the document. This is also part of the typical debt elimination scheme and similar to the self-executing documents contained in the Dorean presentment.

76. The settlement agreement did not call for the signature of BB&T but instead stated that BB&T could reject the settlement by refusing a $10.00 check which would be sent to BB&T by separate letter and by returning the check to Braswell.

77. Braswell delivered the settlement agreement and the $10.00 check to BB&T.

78. The $10.00 check tendered by the Braswell to BB&T did not contain a legend that it was tendered in full payment of the credit card debt, which exceeded $15,000.00.

79. Erickson later asserted the frivolous position in pleadings that BB&T had accepted $10.00 as full satisfaction of its $15,000.00 credit card debt.

80. BB&T filed suit in Rutherford County District Court against Braswell on May 14, 2004 to recover the outstanding balance on the credit card account. The lawsuit is styled *BB&T, Plaintiff v. Grover T. Braswell III and Daphan G. Braswell,*, Rutherford County District Court file number 04CVD 601. This lawsuit was subsequently transferred to Cleveland County and assigned Cleveland County file number 04 CVD 1594.

81. On or before August 14, 2004, Erickson prepared the Braswells' responses to BB&T's First Set of Interrogatories, First Request for Production of Documents and First Request for Admissions, although his verified answer to the State Bar' Complaint in this matter specifically denies doing so. Erickson's client records show that he did in fact prepare these documents and have the Braswells file the documents *pro se*.

82. In their responses to the interrogatories, which were drafted by Erickson, the Braswells stated that they could not respond until BB&T provided voluminous documentation relating to the history of the account.

83. Prior to retaining DRS and Erickson's services, the Braswells had never challenged the accuracy of the charges or payment credits contained in any monthly statement they had received on the account.

84. The Braswells' response to BB&T's request for admissions, prepared by Erickson, admitted all charges to the account.

85. The Braswells' response to BB&T's request for admissions, prepared by Erickson, admitted that the Braswells had been properly credited with all payments made by them on the account.

86. The Braswells' response to BB&T's request for admissions, prepared by Erickson, denied the legitimacy of the indebtedness on the grounds that the finance charges were fraudulently calculated.

87. Prior to retaining DRS and Erickson's services, the Braswells had never challenged the accuracy of finance charges in any monthly statement they had received on the account.

88. On August 19, 2004, Erickson made a formal appearance in the lawsuit on behalf of the Braswells.

89. In representing the Braswells in the lawsuit, Erickson contended that BB&T lacked standing to maintain the action because BB&T had assigned the indebtedness which was the subject of the lawsuit to a third party.

90. Neither Erickson nor the Braswells were in possession of any evidence that BB&T had assigned the Braswells' indebtedness to a third party.

91. Neither Erickson nor the Braswells presented any evidence that BB&T had assigned the Braswells' indebtedness to a third party.

92. The conduct of Erickson in the Braswell lawsuit resulted in unnecessary expenditure of time and resources of BB&T and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

93. Erickson engaged in the conduct in the Braswell lawsuit for the purpose of assisting DRS and the Braswells in their credit card elimination scheme and to delay

BB&T in pursuing its legitimate claim against the Braswells. BB& T incurred additional costs in pursuing this claim and was harmed by Erickson's conduct.

94. Erickson provided improper legal advice to the Braswells and asserted frivolous positions on the Braswells' behalf at the direction and instruction of DRS, which had referred the Braswells to Erickson.

95. Kevin Swanson ("Swanson") was referred to Erickson by Stewart Tadlock, doing business as Debt Relief Services ("DRS"), which represented to Swanson that, in exchange for the payment of money by Swanson, its system would allow Swanson to eliminate his credit card debt.

96. In 2003, Citibank South Dakota, N.A. ("Citibank") commenced civil litigation in Henderson County, North Carolina against Swanson to recover amounts owed by Swanson to Citibank pursuant to a credit card agreement. Citibank's lawsuit against Swanson is Henderson County Superior Court file no. 03 CVS 0391.

97. Erickson undertook to represent Swanson in the Swanson litigation.

98. When Citibank sought payment on the account, DRS counseled and encouraged Swanson to interpose repeated challenges to the debt, including DRS' preparation for Swanson of a Notice of Dispute and Request for Documentary Evidence, a Demand for Arbitration, an Arbitration Claim, a request for Preliminary Hearing, and a Notice of Intent to Tender Partial Payment and Other Consideration as Satisfaction in Full. These documents are seen in typical debt elimination schemes.

99. Prior to retaining DRS and Erickson's services, Swanson had never challenged the accuracy of the charges or payment credits contained in any monthly statement he had received on the account.

100. In the Swanson litigation, Erickson filed in the Henderson County Superior Court pleadings entitled Amended Affirmative Defenses, Motions to Dismiss, Answer and Counterclaim and Demand for Jury Trial (hereinafter referred to as "the Amended Answer").

101. In the Amended Answer, Erickson asserted, among other defenses, that the complaint should be dismissed because Citibank was not the real party in interest, that Citibank breached its duty to disclose under 12 CFR 226.5a, that Citibank violated its duty to correct billing errors, that Citibank's claims were barred by lack of consideration, and that Citibank is not authorized to do business in North Carolina.

102. Erickson had no factual or legal basis for the defenses or counterclaims he asserted in the Amended Answer.

103. Erickson asserted frivolous defenses and counterclaims to assist DRS and Swanson in the credit card elimination scheme and for the improper purpose of delaying the entry of judgment in Citibank's favor. Citibank incurred additional costs in pursuing this litigation and was harmed by Erickson's conduct.

104. The frivolous assertions contained in the Amended Answer resulted in delay and waste of the court's time and prejudice to the administration of justice.

105. There was never a dispute as to the amount of liability for the credit card debt, said amount having been found by the Court to be $23,487.91.

106. In Swanson's responses to interrogatories, request for production and request for admissions, which were prepared by Erickson and served upon Citibank, Erickson asserted the same frivolous positions that he had asserted in the Amended Answer.

107. The conduct of Erickson in the Swanson litigation resulted in unnecessary expenditure of time and resources of Citibank and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew or should have known were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

108. DRS agreed to pay Swanson's legal fees for advising and representing Swanson in his dispute and subsequent litigation relating to his past due credit card debt to the extent Swanson did not pay Erickson.

109. Judgment was entered against Swanson in favor of Citibank on September 8, 2004 for the accrued debt plus attorney's fees.

110. Erickson provided improper legal advice to Swanson and asserted frivolous positions on Swanson's behalf at the instruction of DRS, which had referred Swanson to Erickson.

111. On or before 2004, Erickson undertook to represent James L. Wilson ("Wilson") in connection with Wilson's credit card debt.

112. Wilson was referred to Erickson by Stewart Tadlock, d/b/a DRS, to assist Wilson relative to his Citibank credit card indebtedness. DRS assisted Wilson for a fee.

113. There never has been a legitimate dispute about Wilson's liability for the credit card debt.

114. When Citibank sought payment on the account, DRS counseled and encouraged Wilson to interpose repeated challenges to the debt, including DRS' preparation for Wilson of a Notice of Dispute and Request for Documentary Evidence, a Demand for Arbitration, an Arbitration Claim, a request for Preliminary Hearing, and a Notice of Intent to Tender Partial Payment and Other Consideration as Satisfaction in Full.

115. DRS prepared for Wilson's signature and use a Demand for Arbitration, an Arbitration Claim, and a Request for Preliminary Hearing.

116. DRS prepared for Wilson a Settlement Agreement purporting to reflect a settlement of Wilson's purported dispute despite the fact that Citibank had never agreed to the settlement purportedly set forth in the document.

117. Neither the Notice of Intent to Tender Partial Payment containing Wilson's signature nor the Settlement Agreement called for the signature of the parties but instead provided that Citibank could reject the Settlement by refusing a $10.00 check which would be sent to Citibank under separate cover and by returning the check to the Wilsons.

118. No communication had ever occurred between Wilson and/or Erickson, on the one hand, and Citibank, on the other hand, related to settling the credit card debt for a nominal amount.

119. Wilson delivered the Settlement Agreement and a check in the amount of $10.00 to Citibank.

120. The $10.00 check tendered by Wilson to Citibank did not contain a legend indicating that it was tendered in full and final payment of the credit card debt.

121. None of Wilson's letters of dispute to Citibank specifically referenced the accuracy of the charges or payment credits contained in any monthly statement.

122. Citibank eventually commenced litigation against Wilson in Buncombe County in case no. 03 CV 4953.

123. Erickson made an appearance as counsel for Wilson and filed pleadings on Wilson's behalf in the Wilson litigation.

124. In the Wilson litigation, Erickson filed pleadings entitled Affirmative Defenses, Motions to Dismiss, Answer and Demand for Jury Trial.

125. Erickson asserted the frivolous position that Citibank had accepted the $10.00 check in full satisfaction of Wilson's credit card debt of $13,239.84, with respect to which there was no legitimate dispute.

126. Prior to retaining DRS and Erickson's services, Wilson had never challenged the accuracy of the charges or payment credits contained in any monthly statement he had received on the account.

127. Citibank took a voluntary dismissal of 03 CV 4953 and then refiled under file no. 05 CVS 0154 ("the Wilson litigation").

128. Erickson made an appearance as counsel for Wilson and filed pleadings on Wilson's behalf in the Wilson litigation.

129. In the Wilson litigation, Erickson filed pleadings entitled Affirmative Defenses, Motions to Dismiss, Answer and Demand for Jury Trial (hereinafter referred to as "the Amended Answer").

130. Erickson had no factual or legal basis for the defenses or counterclaims he asserted in the Amended Answer.

131. Erickson asserted the frivolous defenses for the improper purpose of delaying the entry of judgment in Citibank's favor. These actions increased the costs

incurred by Citibank in the litigation and assisted DRS in its credit card elimination scheme.

132. The frivolous assertions contained in the Amended Answer resulted in delay and waste of the court's time and prejudiced the administration of justice.

133. The court struck many of the defenses asserted by Erickson in the Wilson litigation.

134. The conduct of Erickson in the Wilson litigation resulted in unnecessary expenditure of time and resources of Citibank and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew or should have known were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

135. Erickson provided improper legal advice to Wilson and asserted frivolous positions on Wilson's behalf at the instruction of DRS the entity which had referred Wilson to Erickson.

136. Julie Tipton ("Tipton"), a/k/a Julie Brown, was referred to Erickson by Stewart Tadlock, d/b/a DRS, to assist Tipton relative to her MBNA credit card indebtedness. DRS assisted Tipton for a fee.

137. MBNA commenced litigation against Tipton in Buncombe County District Court file number 04 CVD 1003.

138. Erickson undertook to represent Tipton.

139. There was no dispute as to the amount of Tipton's liability for the credit card debt.

140. The brief filed by Erickson on behalf of Tipton covered many of the same legal points, issues and defenses asserted on behalf of Braswell, Swanson and Wilson.

141. Erickson had no reasonable factual or legal basis for making the arguments and assertions contained in the brief.

142. The conduct of Erickson described above resulted in unnecessary expenditure of time and resources of MBNA and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew or should have known were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

143. Erickson engaged in the conduct described above for the purpose of assisting DRS and Tipton in the credit card elimination scheme and delaying MBNA in pursuing its legitimate claim against Tipton.

144. Erickson provided improper legal advice to Tipton and asserted frivolous positions on Tipton's behalf at the instruction of DRS the entity which had referred Tipton to Erickson.

145. Karen Cansler ("Cansler") sought Erickson's legal assistance in a dispute and subsequent litigation relating to Cansler's past due credit card debt owed to Citibank.

146. Cansler's credit card debt exceeded $6000.00.

147. Cansler was referred to Erickson by Stewart Tadlock, d/b/a DRS, to assist Cansler in her efforts to proceed *pro se* in her case against Citibank regarding her credit card indebtedness.

148. Erickson met with Cansler in July 2004 to discuss her case with Citibank and agreed to consider providing her advice and input in the future if she wanted.

149. There has never been a dispute as to the amount of liability of Cansler's credit card debt.

150. DRS counseled and encouraged Cansler to interpose repeated challenges to the debt, including DRS' preparation for Cansler of a Notice of Dispute and Request for Documentary Evidence, a Demand for Arbitration, an Arbitration Claim, a request for Preliminary Hearing, and a Notice of Intent to Tender Partial Payment and Other Consideration as Satisfaction in Full.

151. DRS prepared for Cansler a settlement agreement purporting to reflect a settlement of Cansler's purported dispute when Citibank had not agreed to the settlement purportedly set forth in the document.

152. Neither the Notice of Intent to Tender Partial Payment containing Cansler's signature nor the settlement agreement called for the signature of the parties but instead stated that Citibank could reject the settlement by refusing a $362.61 check which would be sent to Citibank under separate cover any by returning the check to Cansler.

153. Cansler delivered the settlement agreement and the $362.61 check to Citibank.

154. The check tendered by Cansler did not contain a legend indicating that it was tendered in full and final payment of the credit card debt.

155. No communication had ever occurred between Cansler and/or Erickson, on the one hand, and Citibank, on the other hand, related to settling the credit card debt for $362.61.

156. When Citibank received and cashed the check, Erickson counseled and encouraged Cansler to assert the frivolous position that Citibank had accepted the $362.61 as full satisfaction of her credit card debt.

157. Relying upon Erickson's advice, Cansler did assert the frivolous position that Citibank had accepted $362.61 as full satisfaction of her credit card debt.

158. In 2004, Citibank commenced litigation against Cansler in Buncombe County District Court, file no. 04 CVD 2841, to recover amounts owed by Cansler for the credit card debt (hereinafter referred to as "the Cansler litigation").

159. Erickson prepared for Cansler to file, *pro se*, frivolous pleadings asserting the same frivolous defenses and contentions that he had prepared for and/or asserted on behalf of the Braswells, Swanson, Wilson and Tipton.

160. Erickson had no legal or factual basis to assert the frivolous defenses and contentions contained in the pleadings he prepared for Cansler.

161. Erickson knew that Cansler intended to file the frivolous pleadings.

162. Erickson prepared for Cansler to file *pro se*, a Request that the Court Take Judicial Notice and Response to Plaintiff's Motion for Summary Judgment, which contained similar defenses and contentions that Erickson had prepared for and/or asserted on behalf of the Braswells, Mr. Swanson, Mr. Wilson and Ms. Tipton.

163. The conduct of Erickson in the Cansler litigation resulted in unnecessary expenditure of time and resources of Citibank and resulted in unnecessary expenditure of time by the court addressing legal positions which Erickson knew or should have known were not supported by fact, were not supported by law and were not supported by a good faith argument for an extension, modification or reversal of existing law.

164. Erickson engaged in the conduct described above for the purpose of delaying Citibank in pursuing its legitimate claim against Cansler. Citibank incurred additional litigation costs as a result of Erickson's actions and was harmed.

165. Erickson provided improper legal advice to Cansler and counseled and assisted Cansler in asserting frivolous positions at the instruction of DRS the entity which had referred Cansler to Erickson.

Based on the foregoing Findings of Fact, the Committee enters the following:

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Committee of the Disciplinary Hearing Commission, and the Hearing Committee has jurisdiction over Erickson and the subject matter of this proceeding.

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

(a) By defending the Lambeth litigation and foreclosure proceedings on frivolous and false grounds, claims, and defenses, without basis in law or fact, Erickson engaged in conduct in violation of Rule 3.1 (meritorious claims and contentions); Rule 3.3 (candor toward the tribunal); Rule 8.4 (c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); and Rule 8.4 (d) (conduct prejudicial to the administration of justice).

(b) By defending the Gust and Stelley foreclosure proceedings with frivolous and false issues, without basis in law or fact, Erickson engaged in conduct in violation of Rule 3.1 (meritorious claims and contentions); Rule 3.3 (candor toward the tribunal); Rule 8.4 (c) (conduct involving dishonesty, fraud, deceit, or misrepresentation); and Rule 8.4 (d) (conduct prejudicial to the administration of justice).

(c) By entering into an arrangement with the Dorean Group and/or Kurt F. Johnson and/or Dale Scott Heineman whereby these individuals or entity referred clients to Erickson and Erickson followed the instructions and directions of these individuals or entity, rather than providing his clients with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(d) By assisting Lambeth and the Dorean Group in its fraudulent activities, Erickson engaged in conduct in violation of Rules 1.2(d); 8.4(d); and 8.4(g).

(e) By advising, counseling and assisting the Braswells to serve frivolous demands and a purported fictitious settlement agreement upon BB&T and by preparing frivolous pleadings and discovery responses and by advising the Braswells to file frivolous pleadings and discovery responses, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(f) By asserting frivolous and unfounded legal and factual positions in the Braswell litigation, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(g) By entering into an arrangement with Debt Relief Services and/or Stewart Tadlock whereby this entity or individual referred the Braswells to Erickson and Erickson followed the instructions and directions of Debt Relief Services or Tadlock rather than providing the Braswells with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(h) By assisting the Braswells and DRS in their attempt to fraudulently eliminate the Braswells' debt with BB&T and in their litigation with BB&T, Erickson engaged in conduct in violation of Rules 1.2 and 8.4(d).

(i) By filing frivolous pleadings and asserting frivolous and unfounded factual positions in the Swanson litigation, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(j) By entering into an arrangement with Debt Relief Services and/or Stewart Tadlock whereby this entity or individual referred the Swanson to Erickson and Erickson followed the instructions and directions of Debt Relief Services or Tadlock rather than providing Swanson with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(k) By assisting Swanson in his attempt to eliminate his debt with Citibank and in his litigation with Citibank, Erickson engaged in conduct in violation of Rules 1.2 and 8.4(d).

(l) By advising, counseling and assisting Wilson to serve frivolous demands and a purported fictitious settlement agreement upon Citibank and by preparing frivolous pleadings and discovery responses and by advising Wilson to file frivolous pleadings and discovery responses, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(m) By filing frivolous pleadings and asserting frivolous and unfounded factual positions in the Wilson litigation, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(n) By entering into an arrangement with Debt Relief Services and/or Stewart Tadlock whereby this entity or individual referred Wilson to Erickson and Erickson followed the instructions and directions of Debt Relief Services or Tadlock rather than providing Wilson with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(o) By assisting Wilson in his attempt to eliminate his debt with Citibank and in his litigation with Citibank, Erickson engaged in conduct in violation of Rules 1.2 and 8.4(d).

(p) By filing frivolous pleadings and asserting frivolous and unfounded factual positions in the Tipton litigation, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(q) By entering into an arrangement with Debt Relief Services and/or Stewart Tadlock whereby this entity or individual referred Tipton to Erickson and Erickson followed the instructions and directions of Debt Relief Services or Tadlock rather than providing Tipton with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(r) By assisting Tipton in her attempt to eliminate her debt with MBNA and in her litigation with MBNA, Erickson engaged in conduct in violation of Rules 1.2 and 8.4(d).

(s) By assisting, counseling and advising Cansler to assert frivolous and unfounded factual positions in the Cansler litigation, Erickson engaged in conduct in violation of Rules 3.1; 3.3; 8.4(c); and 8.4(d).

(t) By entering into an arrangement with Debt Relief Services and/or Stewart Tadlock whereby this entity or individual referred Cansler to Erickson and Erickson followed the instructions and directions of Debt Relief Services or Tadlock rather than providing Cansler with independent legal advice, Erickson engaged in conduct in violation of Rules 1.8(f); 2.1; and 5.4(c).

(u) By assisting Cansler in her attempt to eliminate her debt with Citibank and in her litigation with Citibank, Erickson engaged in conduct in violation of Rules 1.2 and 8.4(d).

In addition to the foregoing Findings of Fact and Conclusions of Law, the evidence presented and the arguments of counsel, the hearing committee hereby makes the following:

FINDINGS REGARDING DISCIPLINE

1. Erickson's misconduct is aggravated by the following factors:

a. Dishonest or selfish motive;

b. A pattern of misconduct;

c. Multiple offenses;

d. Refusal to acknowledge wrongful nature of conduct;

e. Vulnerability of victim; and

f. Substantial experience in the practice of law.

2. Erickson's misconduct is mitigated by the absence of a prior disciplinary record.

3. The aggravating factors outweigh the mitigating factor.

4. Erickson has significantly harmed his clients by leaving them in a worse position by assisting them in the Dorean mortgage elimination scheme and the credit card debt elimination scheme.

5. Erickson's conduct caused significant harm and significant potential harm to clients, to the legal profession, to the administration of justice, and to the public.

6. This DHC Committee has considered lesser alternatives and finds that a Censure or Reprimand would not sufficiently protect the public because of the gravity of the harm caused by the conduct of Erickson. No discipline short of an active suspension can maintain the reputation of the legal profession and instill the public's trust in the legal profession and in the administration of justice.

7. Entering an order imposing lesser discipline than an active suspension would fail to acknowledge the seriousness of the misconduct engaged in by Erickson and would send the wrong message to the attorneys and the public regarding the conduct expected of members of the Bar of their State.

8. For these reasons, this DHC Committee finds that an order of discipline short of a long term suspension of Erickson's law license would not be appropriate. An active term of suspension is the only sanction that can adequately protect the public.

Based on the foregoing Findings of Fact and Conclusions of Law regarding Discipline, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The license of Paul L. Erickson is hereby suspended for five (5) years beginning 30 days from service of this order upon Erickson.

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

3. Erickson shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Erickson shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

4. Within 15 days of the effective date of this order, Erickson shall provide the State Bar with an address at which clients seeking return of files can obtain such files and shall promptly return all files to his clients upon request. As part of his wind down from practice, Erickson will properly disburse all client or fiduciary funds or property

held in any trust accounts or otherwise in his possession or control. Within ninety (90) days of the effective date of this order, Erickson will provide the State Bar with a complete and accurate accounting for the disbursement of all funds or property held in trust, including the names, addresses, and telephone numbers of all persons or entities for whose benefit he disbursed during the wind down period and any remaining funds or property held in trust.

5. The costs of this proceeding, including deposition costs of the State Bar, are taxed to Erickson and shall be paid or assessed by the Secretary within 90 days of the entry of this order.

6. After completion of the five (5) year active suspension, Erickson may apply for reinstatement upon filing a petition with the Secretary of the North Carolina State Bar demonstrating the following by clear, cogent, and convincing evidence:

a. That he properly wound down his law practice and complied with the terms of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules;

b. That he has paid the costs of this proceeding;

c. That he has kept his address of record with the North Carolina State Bar current, promptly accepted all certified mail from the North Carolina State Bar, and responded to all letters of notice and requests for information from the North Carolina State Bar by the deadlines stated in the communication;

d. That he has not engaged in conduct constituting the unauthorized practice of law or that would constitute a violation of the Revised Rules of Professional Conduct if he were not suspended from practice;

e. That he has 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 Erickson's obligation to contact the appropriate departments on a timely basis, ascertain his financial and CLE obligations during his suspension and timely satisfy those obligations; and

f. That he properly disbursed all client or fiduciary funds in any trust accounts or otherwise in his possession or control on a timely basis and within ninety (90) days of the effective date of this order, provided the State Bar with the names, addresses, and telephone

numbers of all persons or entities for whose benefit he holds any funds in a trust account.

Signed by the Chair with the consent of the other hearing committee members, this the 14th day of August, 2008.

M. Ann Reed

M. Ann Reed, Chair
Disciplinary Hearing Committee