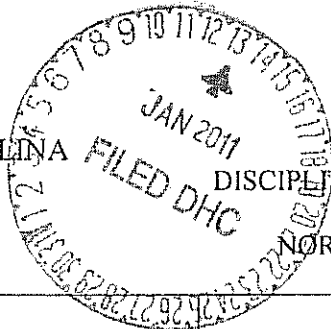


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
10 DHC 5

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

E. ELIZABETH LEFLER, Attorney,

Defendant

ORDER OF DISCIPLINE

This matter is before a hearing panel of the Disciplinary Hearing Commission composed of Theodore C. Edwards, II, Chair, Steven D. Michael and Dr. Charles L. Garrett, Jr. William N. Farrell represents Plaintiff, the North Carolina State Bar. Defendant has not participated in this proceeding and has no counsel of record.

On Plaintiff's motion, judgment by default was entered against Defendant. Based upon the pleadings and admissions pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(f) and Rule 8(d) of the Rules of Civil Procedure, the hearing panel finds by clear, cogent, and convincing evidence the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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, E. Elizabeth Lefler (hereinafter "Lefler" or "Defendant"), was admitted to the North Carolina State Bar on August 21, 1983 and is, and was at all times referred to herein, an Attorney at Law licensed 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. In August 2004 Defendant closed her practice in North Carolina and moved to Texas.

3. In November 2004 the Council of the North Carolina State Bar entered an order suspending Defendant's license to practice law for failing to complete the minimum mandatory continuing legal education requirements.

4. Before November 2004, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Franklin, Macon County, North Carolina.

5. On or about September 30, 1999 David and Georgene Gay and their son Matthew were involved in an automobile accident. Shortly thereafter, the Gays hired Defendant to represent them in a claim for personal injury.

6. In or about April 2004 Defendant settled the Gays' claims. Defendant received \$68,772.09 on behalf of the Gays which she deposited into her attorney trust account at First Citizens Bank in April 2004.

7. In or about early May 2004, Defendant disbursed on the Gays' behalf most of the funds she deposited. Defendant retained in her trust account \$2,979.51 for payment to specific medical providers, the amount of which was uncertain at that time.

8. In or about May 2004, Defendant asserted to the Gays she would determine and disburse the appropriate amounts due to those medical care providers and disburse any remaining funds to the Gays.

9. Sometime in mid 2004 Defendant abandoned her law practice and moved to Dallas, Texas, effectively terminating her representation of the Gays. Defendant did not notify the Gays that Defendant was relocating.

10. Defendant has not properly disbursed the remaining funds in her trust account held on behalf of the Gays.

11. After Mr. and Mrs. Gay realized Defendant was no longer representing them, they attempted to contact Defendant to determine the status of the funds held on their behalf. Defendant did not respond to their inquiries.

As previously found by default judgment and now recited herein, based on the foregoing Findings of Fact the hearing panel makes the following:

CONCLUSIONS OF LAW

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

2. Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Revised Rules of Professional Conduct in effect at the time of the actions as follows:

a. By failing to determine the amounts due to the medical care providers and appropriately disburse the trust funds held on the Gays' behalf, Defendant did not act with reasonable diligence and promptness in representing a client in violation of Rule 1.3;

b. By failing to notify the Gays that Defendant had moved away and would not continue the representation and by failing to otherwise communicate with them, Defendant failed to keep her client reasonably informed about the status of the representation and failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation in violation of Rule 1.4(a)(3) and (b); and

c. By failing to properly disburse client funds remaining in her attorney trust account upon closing her law practice, Defendant did not take steps reasonably necessary to protect the client's interests in violation of Rule 1.16(d) and did not promptly pay or deliver to the client or to a third person as directed by the client entrusted property belonging to the client and to which the client was currently entitled in violation of Rule 1.15-2(a) and (m).

Based on the foregoing Findings of Fact and Conclusions of Law, the hearing panel finds by clear, cogent, and convincing evidence the following additional:

FINDINGS OF FACT REGARDING DISCIPLINE

1. Defendant was disciplined by a committee of the Disciplinary Hearing Commission by order dated June 6, 2007 in case number 06 DHC 20 and received an active suspension of 5 years. Although Defendant could have applied to be reinstated after completing 1 year of the active suspension, she has not done so.

2. Defendant has substantial experience in the practice of law.

3. Clients are entitled to attorneys they can trust and to attorneys that will communicate with them.

4. Clients are entitled to attorneys that will properly disburse money held on their behalf.

5. Defendant has engaged in a pattern of misconduct when considered with the conduct in 06 DHC 20.

6. Defendant has been indifferent to disbursing the remaining funds in her trust account held on behalf of the Gays and has not done so.

7. The Gays relied on Defendant to protect their interest.

8. Defendant has failed to participate in this proceeding.

Based on the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact Regarding Discipline, and upon consideration of the factors set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(w), the hearing panel hereby enters the following additional:

CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The hearing panel has carefully considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w) of the Rules and Regulations of the North Carolina State Bar. The hearing panel finds evidence of the following factors:

- a. From Rule .0114(w)(1):
 - i. Negative impact of defendant's actions on the client's perception of the profession.
 - ii. Impairment of the client's ability to achieve the goals of representation.
 - iii. Effect Defendant's conduct on third parties, in that Defendant retained settlement funds to pay specific medical providers but failed to determine and disburse the appropriate amounts.
- b. From Rule .0114(w)(3):
 - i. Prior disciplinary offense.
 - ii. Indifference to making restitution to the Gays for settlement funds not disbursed.
 - iii. A pattern of misconduct.
 - iv. Multiple offenses.
 - v. Vulnerability of the Gays.
 - vi. Degree of experience in the practice of law.

2. Defendant's conduct resulted in significant harm and/or potential harm to her clients, the Gays.

3. Defendant's pattern of dishonest conduct poses potential significant harm to the public that may seek to retain her or those who may deal with her in other capacities. When a lawyer violates the trust clients and others should be able to have in attorneys, it harms the public and the profession.

4. The hearing panel has carefully considered admonition, reprimand, censure, suspension, and disbarment in considering the appropriate discipline in this case.

5. The hearing panel finds that admonition, reprimand, censure, or suspension would not be sufficient discipline because of the gravity of harm to clients, the public and the profession in the present case.

6. The hearing panel concludes that discipline short of disbarment would not adequately protect the public for the reasons stated above and for the following reasons:

- a. Defendant has been previously disciplined and suspended from the practice of law.
- b. Defendant has repeatedly engaged in rule violations reflecting adversely on her trustworthiness or fitness as a lawyer.
- c. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed, would be inconsistent with discipline issued in prior cases involving similar misconduct, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State.
- d. The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until she demonstrates the following: that she has reformed; that she understands her obligations to her clients, the public, and the legal profession; and that permitting her 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 on the foregoing Findings of Fact, Conclusions of Law, and additional Findings of Fact and Conclusions of Law Regarding Discipline, the hearing panel hereby enters the following:

ORDER OF DISCIPLINE

1. Defendant, E. Elizabeth Lefler, is hereby DISBARRED from the practice of law.

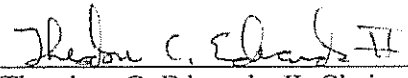
2. Defendant shall surrender her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Defendant be taxed with the administrative fees and with actual costs permitted by law in connection with the proceeding. Defendant must pay the costs within

30 days of service upon her of the statement of costs by the Secretary of the North Carolina State Bar.

4. Defendant shall comply with all provisions of 27 NCAC 1B § .0124 of the North Carolina State Bar Discipline and Disability Rules.

Signed by the Chair with the consent of the other hearing panel members, this the 13th day of January, 2011.


Theodore C. Edwards, II, Chair
Disciplinary Hearing Panel