

NORTH CAROLINA  
WAKE COUNTY

MS 93 7 13  
JUN 21 1993  
BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
93 DHC 6

THE NORTH CAROLINA STATE BAR,  
Plaintiff  
  
vs.  
  
STEPHAN F. LAPPING, ATTORNEY  
Defendant

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on August 13, 1993 before a hearing committee of the Disciplinary Hearing Commission composed of Frank E. Emory, Jr., Chairman, Rebecca Blackmore, and A. James Early, III; with the Defendant, Stephan F. Lapping acting pro se and Harriet P. Tharrington representing the North Carolina State Bar; and based upon the pleadings and Default Judgment, the hearing committee therefore enters the following:

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, Stephan F. Lapping, was admitted to the North Carolina State Bar in 1986, and is, and was at all times referred 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 all of the periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in Moore County, Carthage, North Carolina.
4. Ann Bacellieri filed a grievance against Defendant with the North Carolina State Bar (hereafter State Bar) on October 5, 1992.
5. On November 16, 1992, the State Bar sent Defendant a letter of notice regarding Bacellieri's grievance by certified mail, return receipt requested. Sherwood Lapping accepted service of the letter of notice mailed

to Defendant on November 17, 1992.

6. Defendant did not respond to the grievance filed by Bacellieri within 15 days of receiving it as required by Article IX, Section 12(C) of the Discipline and Disbarment Procedures of the State Bar.
7. By letter dated December 3, 1992, Defendant was given an extension until December 13, 1992 to respond to the grievance. Defendant failed to respond on or before December 13, 1992.
8. A subpoena to produce documents or objects was issued to Defendant on December 16, 1992 by the State Bar. The subpoena commanded Defendant to appear at the State Bar office on December 30, 1992 to respond to the grievance.
9. Defendant appeared at the State Bar office on December 30, 1992 pursuant to the subpoena. Defendant stated that he did not respond to the grievance due to court obligations and his wife's illness. Defendant stated that he could provide a written response to the grievance within 10 days of December 30, 1992.
10. Fern E. Gunn, deputy bar counsel, wrote Defendant on December 30, 1992 and confirmed their conversation on that day. Ms. Gunn reminded Defendant of his obligation to respond to the grievance no later than January 11, 1993.
11. Defendant failed to respond to the grievance on or before January 11, 1993.
12. On January 22, 1993, Ms. Gunn spoke with Defendant by telephone. Defendant stated that he would send his response by facsimile on January 22, 1993. The State Bar received no response from Defendant on January 22, 1993.
13. Ms. Gunn mailed Defendant a letter dated January 22, 1993 and reminded him of his obligation to respond to the grievance by January 11, 1993. Defendant was given a final extension to February 2, 1993 to respond to the grievance.
14. Defendant failed to respond to the grievance on or before February 2, 1993.
15. On March 24, 1993, the State Bar sent a subpoena to produce documents or objects to Defendant by certified mail, return receipt requested. The subpoena required Defendant to appear before the Grievance Committee on April 15, 1993 to respond to the grievance filed by Bacellieri. The post office gave Defendant two notices of the certified letter, but Defendant failed to claim it.
16. Defendant did not appear at the April 15, 1993 meeting of the Grievance Committee.

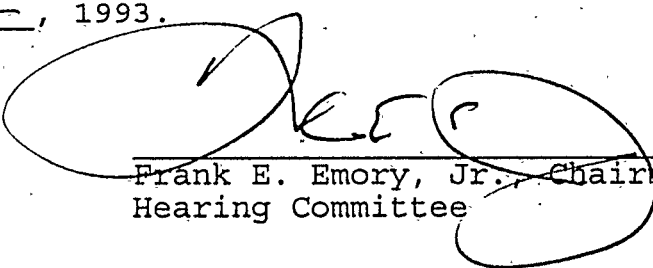
BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW

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

By failing to respond to the State Bar regarding the grievance filed by Bacellieri, Defendant has knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B) of the Rules of Professional Conduct.

Signed by the undersigned chairman with the full knowledge and consent of the other hearing committee members, this the 13th day of August, 1993.



Frank E. Emory, Jr., Chairman  
Hearing Committee

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BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR

93 DHC 6

THE NORTH CAROLINA STATE BAR,  
Plaintiff

vs.

STEPHAN F. LAPPING, ATTORNEY  
Defendant

ORDER OF DISCIPLINE

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This cause was heard by a hearing committee of the Disciplinary Hearing Commission composed of Frank E. Emory, Jr., Chairman; Rebecca Blackmore, and A. James Early, III; on August 13, 1993. After entering the Findings of Fact and Conclusions of Law in this matter, the committee received evidence and considered arguments of counsel concerning the appropriate discipline to be imposed. Based upon the evidence and arguments presented, the committee finds the following aggravating and mitigating factors:

AGGRAVATING FACTORS

1. A pattern of misconduct; and
2. Issuance of a letter of warning to the defendant within the three years immediately preceding the filing of the complaint.

MITIGATING FACTORS

1. Absence of a dishonest or selfish motive.

Based upon the Findings of Fact and Conclusions of Law and the above aggravating and mitigating factors, the committee hereby enters this

ORDER OF DISCIPLINE

1. Defendant is hereby suspended from the practice of law for a period of 60 days, commencing 30 days after service of this order upon defendant or October 1, 1993, whichever is later.
2. Thirty (30) days of the suspension shall be active and the remainder shall be stayed upon the following conditions:
  - (a) Defendant shall violate no laws of the State of North Carolina and shall violate no provisions of the Rules of Professional Conduct during the

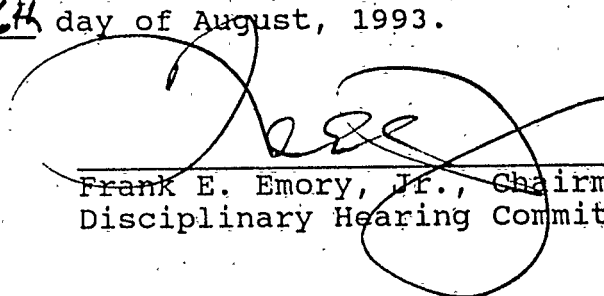
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period of suspension.

- (b) Defendant shall comply with all the provisions of Article IX, Section 24 of the Rules and Regulations of the North Carolina State Bar.
- (c) On or before October 1, 1993, Defendant shall certify to the North Carolina State Bar in writing that Defendant has complied with Article IX, Section 24 of the Rules and Regulations of the North Carolina State Bar.
- (d) Defendant shall complete a three (3) hour ethics course within ninety (90) days of this order.

3. Defendant is taxed with the costs of this proceeding.

Signed by the Chair of the hearing committee with the full knowledge and consent of all parties and the other members of the hearing committee this the 16<sup>th</sup> day of August, 1993.

  
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Frank E. Emory, Jr., Chairman  
Disciplinary Hearing Committee

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