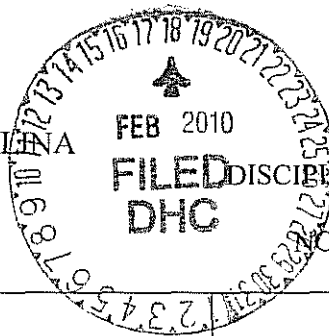


STATE OF NORTH CAROLINA

WAKE COUNTY



FEB 2010

FILED  
DHC

BEFORE THE  
 DISCIPLINARY HEARING COMMISSION  
 OF THE  
 NORTH CAROLINA STATE BAR  
 09 DHC 14

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JENNIFER Y. LEECH., Attorney,

Defendant

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

This matter was heard on December 18, 2009 before a hearing panel of the Disciplinary Hearing Commission composed of Colon C. Willoughby, Jr., Chair, Harriet T. Smalls and Johnny A. Freeman. Brian P.D. Oten and Margaret T. Cloutier appeared on behalf of Plaintiff, the North Carolina State Bar. Stephen E. Culbreth appeared on behalf of Defendant, Jennifer Y. Leech. Based upon the pleadings, the evidence presented at the hearing, and the stipulations of the parties, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

#### FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (“Plaintiff” or “State Bar”), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.

2. Defendant, Jennifer Y. Leech (“Defendant” or “Leech”), was admitted to the North Carolina State Bar on August 22, 1992, 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 all or a portion of the relevant periods referred to herein, Defendant was actively engaged in the private practice of law in the cities of Raleigh, Wake County, and Wilmington, New Hanover County, North Carolina.

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

5. Between 2005 and March 2008, Defendant owned and operated J. Leech, PLLC, a duly organized professional limited liability company authorized to practice law (“the law firm”), which operated under the trade name “Traffic Ticket Restitution of North Carolina” (“TTRNC”).

6. No attorneys other than Defendant were members of the law firm.

7. Defendant entered into contracts with various attorneys across the State (hereinafter “contract attorneys”).

8. Under the terms of the contract, the contract attorneys agreed to resolve traffic citations of Defendant’s clients in exchange for a specified portion of the legal fees paid by the clients to Defendant.

9. Defendant advertised the law firm’s services to potential clients by mailing solicitation letters (“the solicitation letter”) to members of the public who received traffic citations.

10. Defendant mailed solicitation letters under the signature of an attorney who did not practice at the address listed by Defendant in the letter, nor was the signing attorney available at the phone number listed by Defendant as a point of contact.

11. The solicitation letter stated, “Our firm has local member attorneys who work and live in the Counties and districts where we handle tickets.”

12. The classification of the contract attorneys as “member attorneys” was false and misleading to the public.

13. The solicitation letter invited potential clients to visit a website located at <http://www.ttrnc.com> (“the website”). The website was operated by Defendant.

14. Through the website, potential clients could retain TTRNC, communicate specific information about their traffic ticket to Defendant, and submit payment online to Defendant for the representation as well as for court costs and/or fines.

15. Upon receiving payment from a client, Defendant instructed a contract attorney to resolve her client’s traffic matter. The contract attorney assigned by Defendant to a particular client received a portion of the fee paid to Defendant by that client, while Defendant retained a larger portion of the fee.

16. Defendant did not obtain her clients’ written consent or inform her clients of the fee-splitting agreement between Defendant and the individual contract attorney prior to the clients’ retaining the law firm to resolve their respective traffic matters.

17. In or around August 2007, Robert Jonigan (“R. Jonigan”) retained Defendant to represent his son, Andrew Jonigan (“A. Jonigan”), concerning a traffic citation A. Jonigan received in Duplin County, North Carolina.

18. R. Jonigan paid Defendant \$415.00 for the representation.
19. A. Jonigan's court date for his traffic citation was set for September 14, 2007.
20. No attorney appeared on A. Jonigan's behalf at his September 14, 2007 court date, and the court entered a Failure to Appear against A. Jonigan.
21. Due to Defendant's failure to appear at her client's September 14, 2007 court date, the North Carolina Division of Motor Vehicles ("NCDMV") notified A. Jonigan that his driving privilege would be suspended indefinitely.
22. In or around August 2007, Jacob Williams ("J. Williams") retained Defendant to represent him concerning a traffic citation he received in Wake County, North Carolina.
23. J. Williams paid Defendant \$205.00 for the representation.
24. J. Williams' court date for his traffic citation was set for September 22, 2007.
25. No attorney appeared on behalf of J. Williams at his September 22, 2007 court date, and the court entered a Failure to Appear against J. Williams.
26. Due to Defendant's failure to appear at her client's September 22, 2007 court date, the NCDMV notified J. Williams that his driving privilege would be suspended indefinitely.
27. In or around August 2007, Terry Depew ("Depew") retained Defendant to represent him concerning a traffic citation he received in Vance County, North Carolina.
28. Depew paid Defendant \$225.00 for the representation.
29. Depew's court date for his traffic citation was set for September 18, 2007.
30. No attorney appeared on behalf of Depew at his September 18, 2007 court date, and the court entered a Failure to Appear against Depew.
31. Due to Defendant's failure to appear at her client's September 18, 2007 court date, Depew received notice that his North Carolina driving privilege and Virginia driver's license were scheduled for revocation unless the traffic citation was resolved.
32. In or around September 2007, Richard LaFreniere ("LaFreniere") retained Defendant to represent him concerning a traffic citation he received in Vance County, North Carolina.
33. LaFreniere paid Defendant \$215.00 for the representation.
34. LaFreniere's court date for his traffic citation was set for October 12, 2007.

35. No attorney appeared on behalf of LaFreniere at his October 12, 2007 court date, and the court entered a Failure to Appear against LaFreniere.

36. Due to Defendant's failure to appear at her client's October 12, 2007 court date, the NCDMV notified LaFreniere that his driving privilege would be suspended.

37. LaFreniere and his daughter, Teri Kaasa ("Kaasa"), attempted to contact Defendant regarding the status of LaFreniere's case by telephone and email. LaFreniere and Kaasa did not receive a timely response from Defendant.

38. In or around December 2007, Betty Thomas ("Thomas") retained Defendant to represent her concerning a traffic citation she received in Scotland County, North Carolina.

39. Thomas paid Defendant \$360.00 for the representation.

40. Thomas' court date for her traffic citation was set for December 31, 2007.

41. No attorney appeared on behalf of Thomas at her December 31, 2007 court date, and Thomas obtained a continuance of her case without the assistance of Defendant.

42. Thereafter Thomas attempted contact Defendant regarding the status of her case. Thomas did not receive a timely response from Defendant.

43. In or around January 2007, Randall Nelson ("Nelson") retained Defendant to represent him concerning a traffic citation he received in Franklin County, North Carolina.

44. Nelson paid Defendant \$295.00 for the representation.

45. Nelson's court date for his traffic citation was set for March 20, 2007.

46. The Franklin County court required an original waiver of appearance, signed by the client, before it would permit a lawyer to resolve a traffic citation on behalf of a client. Defendant did not timely provide Nelson's waiver of appearance to the Franklin County clerk of court.

47. Due to Defendant's failure to timely provide the original waiver form, a failure to appear was entered against Nelson in August 2007 and the NCDMV suspended Nelson's driving privilege.

48. Defendant did not obtain an original waiver form signed by Nelson until November 2007.

49. In or around June 2007, Patricia Bridges ("Bridges") retained Defendant to represent her concerning a traffic citation she received in Franklin County, North Carolina.

50. Bridges paid Defendant \$205.00 for the representation. Bridges' payment was to include court costs and fines.

51. Defendant did not timely pay the court costs and/or fines associated with Bridges' traffic citation.

52. Bridges subsequently received a notice from the NCDMV which stated her license would be revoked due to failure to pay court costs and/or fines associated with her traffic citation.

53. In or around September 2007, Loretta Sposato ("Sposato") retained Defendant to represent her concerning a traffic citation she received in Mecklenburg County, North Carolina.

54. Sposato paid Defendant \$255.00 for the representation. Sposato's payment was to include court costs and fines.

55. Defendant did not timely pay the court costs and/or fines associated with Sposato's traffic citation.

56. Sposato subsequently received a notice from the NCDMV which stated her license would be revoked due to failure to pay court costs and/or fines associated with her traffic citation.

57. In or around July 2006, Dawn Wilson ("Wilson") retained Defendant to represent her concerning a traffic citation she received in Pender County, North Carolina.

58. Wilson paid Defendant \$455.00 for the representation. Wilson's payment was to include court costs and fines.

59. Defendant did not timely pay the court costs and/or fines associated with Wilson's traffic citation.

60. Due to Defendant's failure to pay the court costs and/or fines associated with her traffic citation, Wilson's driver's license was suspended on or about December 10, 2006.

61. In or around August 2007, Karen Wiley-Eberle ("Wiley") retained Defendant to represent her concerning a traffic citation she received in Franklin County, North Carolina.

62. Wiley paid Defendant \$205.00 for the representation. Wiley's payment was to include court costs and fines.

63. Defendant did not timely pay the court costs and/or fines associated with Wiley's traffic citation.

64. Wiley subsequently received a notice from the NCDMV which stated her license would be revoked due to failure to pay court costs and/or fines associated with her traffic citation.

65. After receiving the notice from the NCDMV, Wiley attempted to contact Defendant by telephone and by email regarding the status of her case. Defendant did not timely respond to Wiley's telephone messages or emails.

66. By letter dated October 9, 2008, the State Bar required Defendant to produce trust account records, including bank statements, client ledgers, and quarterly and monthly reconciliations, for the period from August 1, 2007 to November 30, 2007.

67. Though Defendant produced some trust account records, Defendant failed to produce any quarterly or monthly reconciliations, or proper client ledgers as required.

68. Checks drawn on Defendant's trust account failed to identify the clients associated with the disbursement.

69. Defendant did not perform quarterly or monthly reconciliations of the trust account used to facilitate J. Leech, PLLC/TTRNC.

70. Defendant did not maintain proper client ledgers which adequately tracked the deposit and withdrawal of clients' funds into her general trust account.

71. On or about March 31, 2008, Defendant sold her law practice operated under the trade name "TTRNC" to another North Carolina attorney.

72. Prior to selling her law practice, Defendant did not notify clients who had retained J. Leech, PLLC in writing about the sale of the practice, including the identity of the purchaser, their right to retain other counsel and take possession of their client file, and the fact that their consent to the sale and transfer of the representation would be presumed if they did not object.

73. For each of the client instances listed above, Defendant took proactive measures to resolve the issues for her clients by having failure to appear charges struck and favorable pleas entered in their stead, paying fees and fines on behalf of certain clients, and refunding money in several situations as per the individual client's request.

Based on the record and the foregoing Findings of Fact, the hearing panel makes the following

#### CONCLUSIONS OF LAW

1. All the parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Jennifer Y. Leech, and the subject matter.

2. Leech's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

- (a) By describing the contract attorneys as "member attorneys" when in fact they were not member attorneys, Defendant made a false and misleading communication in violation of Rule 7.1(a) and falsely stated or implied that the contract attorneys were a part of a partnership or other professional organization in violation of Rule 7.5(e);
- (b) By signing the letter using the name of an attorney who did not practice at the address listed and who was not reachable at the phone number listed, Defendant made a false and misleading communication in violation of Rule 7.1(a);
- (c) By failing to obtain her clients' consent before splitting collected fees with attorneys who were not in the same firm, Defendant improperly divided legal fees paid by her clients in violation of Rule 1.5(e);
- (d) By failing to appear on behalf of A. Jonigan, J. Williams, Depew, LaFreniere, and Thomas at their respective court dates, and by failing to timely provide Nelson's original waiver form to the court, Defendant failed to act with reasonable diligence and promptness in representing clients in violation of Rule 1.3;
- (e) By failing to timely respond to LaFreniere's and Kaasa's telephone calls and emails, as well as Thomas's attempts at communication, Defendant failed to keep her clients reasonably informed about the status of the matter and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(3) and (4);
- (f) By failing to timely pay the court costs and/or fines on behalf of Bridges, Sposato, Wilson, and Wiley, Defendant failed to act with reasonable diligence and promptness in representing a client in violation of Rule 1.3 and failed to deliver entrusted property to a third party as directed by a client in violation of Rule 1.15-2(m);
- (g) By failing to respond to Wiley's telephone messages and emails, Defendant failed to keep her client reasonably informed about the status of the matter and failed to promptly comply with reasonable requests for information in violation of Rule 1.4(a)(3) and (4);
- (h) By failing to maintain proper client ledgers, identify the clients associated with checks drawn on the trust account, and perform monthly and quarterly reconciliations of her trust account, Defendant failed to adequately monitor and maintain her trust account in violation of Rules 1.15-3(b)(2), (3), and (5), as well as Rule 1.15-3(d)(1) and (2);

- (i) By failing to produce all trust account records as required by the State Bar, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 8.1(b); and
- (j) By failing to notify her clients in writing prior to the sale of her law practice, Defendant failed to comply with the provisions regulating the sale of a law practice in violation of Rule 1.17(c)(1), (2), and (3).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments presented at the hearing concerning appropriate discipline, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

#### ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Defendant put her own interest in generating a large amount of revenue ahead of her client's interests in receiving adequate representation.
2. Defendant's actions impaired her clients' abilities to achieve the goals of the representation; namely, to resolve their traffic tickets as quickly and easily as possible. Defendant's conduct delayed her clients' abilities to achieve their goals and caused unnecessary frustration and stress for her clients.
3. As a result of Defendant's conduct, Teri Kaasa was forced to intervene on her father's behalf and attempted to contact Defendant herself in order to resolve her father's ticket. Kaasa also retained another attorney to ensure that Defendant actually resolved the traffic ticket as stated.
4. Defendant's conduct resulted in frustration and stress for not only her clients but for third parties as well. Defendant's conduct had a negative impact on her clients' and the public's perception of the profession.

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

#### CONCLUSIONS REGARDING DISCIPLINE

1. The hearing panel has carefully considered all of the different forms of discipline available to it. In addition, the hearing panel has considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(3) of the Rules and Regulations of the North Carolina State Bar and finds the following factors are applicable in this matter:
  - (a) A pattern of misconduct; and
  - (b) Multiple offenses.



2. The hearing panel has also carefully considered all of the factors enumerated in 27 N.C.A.C. 1B § .0114(w)(1) of the Rules and Regulations of the North Carolina State Bar and finds the following factors warrant suspension of Defendant's license:

- (a) Elevation of the Defendant's own interest above that of the client;
- (b) Negative impact of Defendant's actions on client's or public's perception of the profession;
- (c) Impairment of the client's ability to achieve the goals of the representation; and
- (d) Effect of Defendant's conduct on third parties.

3. Any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Defendant, would not adequately protect the public, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar.

4. Due to the nature and extent of Defendant's conduct and in the interest of protecting the public this panel would consider an active suspension of Defendant's license to practice law if it were not for Defendant's efforts to remedy the problems caused by her representation and her willingness to refund numerous clients' paid fees. Accordingly, the hearing panel finds and concludes that the public will be adequately protected by suspension of Defendant's license, stayed for a period of time with conditions imposed upon Defendant designed to ensure protection of the public and continued compliance with the Rules of Professional Conduct.

5. Defendant has informed the hearing panel that she intends to apply for inactive status with the North Carolina State Bar pursuant to 27 N.C.A.C. 1D § .0901. The intent of this Order of discipline is to protect the public while Defendant is in practice. Therefore, it would thwart the intended effect of the hearing panel's discipline if Defendant should be able to avoid complying with the terms of the stay of this suspension because she is in inactive status. Furthermore, the hearing panel recognizes that Defendant's potential transfer to inactive status cannot occur until the April 2010 meeting of the North Carolina State Bar Council. Accordingly, this Order of discipline shall go into effect as described below.

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

#### ORDER OF DISCIPLINE

1. Defendant's license to practice law in the State of North Carolina is hereby suspended for three years.

2. This Order shall be effective on the date Defendant is served with this Order. However, because Defendant intends to apply for a transfer to inactive status as noted above, prior to April 30, 2010 conditions 3(a) – (c) shall not apply to Defendant. In the event Defendant successfully petitions for and is transferred to inactive status with the North Carolina State Bar pursuant to 27 N.C.A.C. 1D § .0901 by April 30, 2010, the stayed suspension and all accompanying conditions imposed by this Order shall be tolled until Defendant successfully petitions for and is transferred back to active status with the North Carolina State Bar pursuant to 27 N.C.A.C. 1D § .0902. If Defendant is not transferred to inactive status by April 30, 2010, the stayed suspension and all accompanying conditions imposed by this Order shall remain in effect until Defendant successfully transfers to inactive status, at which time any remaining period of the stayed suspension shall be tolled until Defendant's transfer back to active status. Once Defendant returns to active status, the stayed suspension and all accompanying conditions imposed by this Order shall once again go into effect for three years minus the time previously served by Defendant prior to being transferred to inactive status.

3. The period of suspension is stayed for three years contingent upon Defendant's ongoing compliance with the following conditions:

- (a) If Defendant petitions the membership department of the North Carolina State Bar to return to active status with the North Carolina State Bar, Defendant shall notify the Office of Counsel of the North Carolina State Bar within ten (10) days when said petition is filed and if/when Defendant is transferred back to active status;
- (b) Defendant shall complete twelve (12) hours of law office management training approved in advance by the Office of Counsel of the North Carolina State Bar within the first year of the stayed period of suspension. These twelve hours are in addition to the Continuing Legal Education requirements imposed upon all attorneys in this State;
- (c) If Defendant maintains a trust account during the period of stayed suspension, Defendant shall open and operate a new trust account. Before opening such trust account Defendant shall present the State Bar with a plan describing the manner in which she will maintain the trust account in compliance with Rules 1.15-2 & 1.15.-3;
- (d) Defendant shall not violate any state or federal laws or any provisions of the Rules of Professional Conduct during the period of the stayed suspension;
- (e) Defendant shall respond to all State Bar requests for information by the earlier of the deadline stated in the communication or within 30 days of receipt;
- (f) Defendant shall timely comply with all State Bar membership and Continuing Legal Education requirements; and

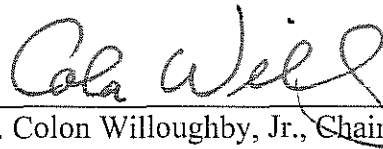
- (g) Defendant shall keep the North Carolina State Bar membership department advised of her current home and business street (not P.O. Box) addresses and telephone numbers.

4. If Defendant fails to comply with any one or more of the conditions referenced in Paragraph 3, then the stay of the suspension of her law license may be lifted as provided in 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules. If the stay granted herein is revoked or the suspension of Defendant's license is activated for any reason, before seeking reinstatement of her license to practice law Defendant must show by clear, cogent, and convincing evidence that she has complied with each of the conditions referenced in Paragraph 3.

5. All costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service of the statement of costs by the Secretary.

6. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

Signed by the Chair with the consent of the other hearing panel members, this the 17 day of February, 2010.



C. Colon Willoughby, Jr., Chair  
Disciplinary Hearing Panel