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NORTH CAROLINA
WAKE COUNTY

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B.E. JAMES, SEC.
THE N.C. STATE BAR

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
78 DHC 6

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

W. A. HOLLAND, JR., Attorney,
Defendant.

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause coming on to be heard and being heard before the undersigned hearing committee of the Disciplinary Hearing Commission of The North Carolina State Bar at a regularly scheduled hearing held on September 22, 1978, in the office of The North Carolina State Bar, 107 Fayetteville Street Mall, Raleigh, North Carolina, and said hearing committee having heard the evidence and arguments and contentions of counsel, make 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.
2. The Defendant, W. A. Holland, Jr., is a citizen and resident of Johnston County, North Carolina and was admitted to The North Carolina State Bar in 1972 and is, and was at all times relevant to this proceeding, an attorney at law licensed to practice law in the State of North Carolina and was and is subject to the Rules, Regulations, Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina.
3. In May, 1975, the Defendant undertook the representation of Mr. Leo H. Tart in a civil matter involving an alleged patent infringement case sought to be instituted on behalf of Mr. Tart against Mr. Derl Walker. This representation was begun after the payment of a retainer fee by Mr. Tart to the Defendant in the amount of \$500.00. This retainer was paid to the

Defendant in Smithfield, North Carolina after the Defendant and Mr. Tart had visited in the offices of John G. Mills, III, a patent attorney in Raleigh, North Carolina. Subsequently, the Defendant paid \$300.00 to said John G. Mills, III. Mr. Mills receipted Mr. Tart.

After numerous visits to the Defendant's office, and numerous telephone calls to the Defendant, Mr. Leo Tart was called to the Defendant's office on or about March 9, 1976 for the purpose of verifying a document entitled "A Complaint in the United States District Court, Leo H. Tart vs. Derl G. Walker, et al." Mr. Leo Tart thereafter repeatedly inquired of the Defendant as to whether the Complaint had been filed and served, and he was assured by the Defendant that the case had been filed and served. Upon inquiry by Mr. Leo Tart of a member of the United States Marshall's Office, Mr. Tart learned that the matter had not, in fact, been filed or served.

After several attempts to contact the Defendant, Mr. Tart was advised by the Defendant on or about November 3, 1976 that he was not competent to prosecute a lawsuit of this nature and suggested that Mr. Tart seek representation elsewhere. At that time the attorney-client relationship was terminated.

Based upon the foregoing Findings of Fact, the Hearing Committee hereby makes the following Conclusions of Law:

1. The Defendant, a duly licensed attorney in the State of North Carolina subject to the Code of Professional Responsibility and of the laws of the State of North Carolina:

a. neglected a legal matter entrusted to him by not filing and prosecuting the civil action on behalf of his client, Mr. Leo Tart, in violation of Disciplinary Rule 6-101(A)(3) of the Code of Professional Responsibility;

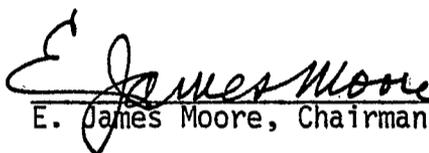
b. failed to carry out a contract of employment entered into with Mr. Leo Tart by failing to file and prosecute the aforementioned civil action, in violation of Disciplinary Rule 7-101(A)(2) of the Code of Professional Responsibility;

c. attempted to handle a legal matter which he knew, by his own admission, that he was not competent to handle without associating with him an attorney who was competent to handle the same, in violation of

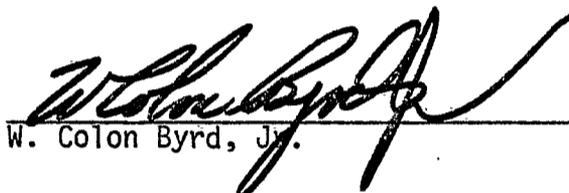
Disciplinary Rule 6-101(A)(1) of the Code of Professional Responsibility;
and

d. engaged in professional conduct that adversely reflected upon his fitness to practice law and conduct that was prejudicial to the administration of justice when he made false statements to his client concerning the filing of the aforementioned civil action, in violation of Disciplinary Rule 1-102(A)(5) and (6) of the Code of Professional Responsibility.

This the 22nd of September, 1978.


E. James Moore, Chairman


Warren C. Stack


W. Colon Byrd, Jr.