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NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR

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THE NORTH CAROLINA STATE BAR,)
Plaintiff,)
-vs-)
ROBERT H. WEST, 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 Wednesday, February 20, 1980, in the office of the North Carolina State Bar, 208 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, Robert H. West, is a citizen and resident of Watauga County, North Carolina and was admitted to the North Carolina State Bar in 1973 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 February, 1978, the Defendant was representing one Dan South in a civil action instituted by Douglas Greene in Watauga County, North Carolina (78 CvD 29). Thereafter, in March, 1978 Dan South died and Kenneth South was appointed as administrator and substituted as a party defendant in the civil action. Prior to the institution of this civil action, a partitioning proceeding had been commenced involving the sale of a tract of land in Watauga County, North Carolina in which Dan South owned an interest and Dan South was a defendant in this proceeding. Upon the conclusion of the partition proceeding, funds to which Dan South, if living, would have been entitled were ordered by the Clerk of the Superior Court of Watauga County, North Carolina to be held by the Clerk of the Superior Court of Watauga County, North Carolina until ordered disbursed as

provided by law. Judge Kirby, Judge of the Superior Court, Division of the General Court of Justice of Watauga County, North Carolina in his Order confirming the Order of the Clerk of the Superior Court also directed that the funds which Dan South, deceased, was entitled to receive should be held by the Clerk of the Superior Court of Watauga County, North Carolina until ordered disbursed as provided by law.

4. On or about May 16, 1978 the Defendant appeared at the Office of the Clerk of Superior Court of Watauga County, North Carolina and informed the bookkeeper that he had just come from court and that his client has prevailed in the case of Greene v. Kenneth South, Administrator (78 CVD 29) and, therefore, his client was entitled to the funds being held in the partition proceeding with regard to Dan South, deceased. Said statements were, in fact, false. Relying on these statements, the bookkeeper issued a check to Defendant's client in the amount of TWO THOUSAND NINE HUNDRED SIXTY-ONE DOLLARS AND FIFTY CENTS (\$2,961.50).

Based on 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, while representing his client, Kenneth South knowingly made a false statement of fact to the bookkeeper in the Watauga County Clerk's Office in violation of Disciplinary Rule 7-102(A) (5) of the Code of Professional Responsibility.

2. By inducing the bookkeeper in said office to disburse said funds as a result of the false statement of fact, the Defendant engaged in conduct involving dishonesty, fraud, deceit or misrepresentation and conduct prejudicial to the administration of justice and conduct that adversely reflects on his fitness to practice law, all in violation of Disciplinary Rule 1-102(A) (4), (5), (6) of the Code of Professional Responsibility.

This the 29th day of April, 1980.

Warren C. Stack
Warren C. Stack, Chairman
Disciplinary Hearing Committee

William Owen Cooke
William Owen Cooke

Nona McDonald
Nona McDonald

79DHC22

NORTH CAROLINA
WAKE COUNTY

APR 29 1980

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR

THE NORTH CAROLINA STATE BAR,
Plaintiff,

-vs-

ROBERT H. WEST, Attorney,
Defendant.

ORDER

Based upon the Findings of Fact and Conclusions of Law entered in this case on the 29th day of April, 1980, all of which are incorporated herein by reference and pursuant to Section 9 of Article XI, Discipline and Disbarment of Attorneys, the undersigned Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar hereby issues the following Order:

IT IS HEREBY ORDERED that the Defendant, Robert H. West, be and he is hereby suspended from the practice of law in the State of North Carolina for a period of three (3) months.

IT IS FURTHER ORDERED that the Defendant, Robert H. West, be and he is hereby taxed with the costs of this proceeding.

This the 29th day of April, 1980.

Warren C. Stack
Warren C. Stack, Chairman

William Owen Cooke
William Owen Cooke

Nona McDonald
Nona McDonald

I, B. E. James, Secretary-Treasurer of The North Carolina State Bar do hereby certify that the attached is a true and exact copy of the FINDINGS OF FACT AND CONCLUSIONS OF LAW and ORDER in the matter of The North Carolina State Bar vs. Robert H. West, 79DHC22, as entered by The Disciplinary Hearing Commission of The North Carolina State Bar on the 29th day of April, 1980.

This the 29th day of April 1980.

B. E. James, Secretary-Treasurer
The North Carolina State Bar