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

STATE OF NORTH CAROLINA

COUNTY OF WAKE

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

THE NORTH CAROLINA STATE BAR, Plaintiff	:	
V.	:	ORDER
REGINALD L. FRAZIER, ATTORNEY, Defendant	:	

THIS CAUSE was heard before a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of Dudley Humphrey, Chairman; John B. McMillan, and Alice W. Penny, on Friday, October 8, 1982 in the Council Chambers of The North Carolina State Bar Building, 208 Fayetteville Street Mall, Raleigh, North Carolina.

The plaintiff was represented by David R. Johnson, Staff Attorney for The North Carolina State Bar.

The defendant was present with his counsel, Bowen C. Tatum, Jr., of the Onslow County Bar.

Upon presentation of evidence and the arguments of counsel, the Hearing Committee makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW.

FINDINGS OF FACT

1. The North Carolina State Bar is a body duly organized under the laws of North Carolina as 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, Reginald L. Frazier, was admitted to the North

Carolina State Bar on September 26, 1960 and was at all times as referred to herein an attorney at law licensed to practice law in the State of North Carolina subject to the rules, regulations, Canons of Ethics and Code of Professional Responsibility of The North Carolina State Bar.

3. At and during all the times hereinafter referred to the defendant was actively engaged in the practice of law in the State of North Carolina and maintained law offices in the City of New Bern, Craven County, North Carolina.

4. In May 1982 James Watson consulted with Mr. Frazier concerning Mr. Watson's discharge from employment with the Roberson Beverage Company, Inc., New Bern, North Carolina, and an alleged slander by Jane Throwe, an employee of Stop-N-Go, Inc.

5. That Mr. Watson paid $34.00 on May 12, 1980 and $50.00 on September 8, 1980 to Mr. Frazier's law firm for expenses in a law suit.

6. That on June 20, 1980 Mr. Frazier filed a complaint in Cause No. 80-CvS-100, James Odell Watson v. Jane Throwe, Richard Wiley, James Townsend, Roy Swairengen, Stop-N-Go, Inc., and Roberson Beverages, Inc., in Jones County.

7. That the complaint was not prosecuted to a full conclusion, but was dismissed by operation of law under Rule 4, Rules of Civil Procedure.

8. That The North Carolina State Bar failed to prove the alleged violations of the Code of Professional Responsibility in Paragraph 15 (a), (b), and (c) of the complaint by clear and competent evidence, and has shown no right to relief on the facts and law.

9. That the defendant moved for an involuntary dismissal under Rule 41(b), Rules of Civil Procedure, saying that on the facts and the law the plaintiff had shown no right to the relief prayed for in the complaint.

10. That the defendant did not admit the expected testimony of the Clerk and the Sheriff of Jones County as requested under Rule 36, Rules of Civil Procedure, and the plaintiff is entitled to the reasonable expenses incurred as provided in Rule 37(c), Rules of Civil Procedure, in subpoening these witnesses.

CONCLUSIONS OF LAW

1. That the defendant's motion under Rule 41(b), Rules of Civil Procedure, should be sustained and an order made accordingly.

2. That the defendant should pay the plaintiff reasonable expenses incurred, as provided in Rule 37(c), Rules of Civil Procedure, for subpoenas of the Clerk and Sheriff of Jones County as witnesses.

ORDER

NOW, THEREFORE, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, it is ORDERED:

1. That the complaint in The North Carolina State Bar, Plaintiff, v. Reginald L. Frazier, Attorney, Defendant, No. 82 DHC 6, is dismissed with prejudice.

2. That the defendant pay the plaintiff expenses reasonably incurred and computed by the North Carolina State Bar under Rule 37(c), Rules of Civil Procedure, for subpoenas issued for the Clerk and the Sheriff of Jones County.

3. That the remaining costs of this proceeding shall be taxed to the plaintiff.

This 19th day of October, 1982 NUNC PRO TUNC OCTOBER 8th, 1982

Dudley Humphrey

DUDLEY HUMPHREY, Chairman

John B. McMillan

JOHN B. McMILLAN, Member

Alice W. Denny

ALICE W. DENNY, Member