

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
82 DHC 13

FILED
1983 MAR 15 PM 2:46

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

THE NORTH CAROLINA STATE BAR,
Plaintiff,

vs.
LAWRENCE T. JONES, ATTORNEY AT LAW,
Defendant.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

This cause was heard by a duly appointed Hearing Committee of the Disciplinary Hearing Commission composed of Jerry L. Jarvis, Chairman; Frank B. Wyatt; and Mary Cecile Bridges on February 25, 1983, upon application and motion of the Plaintiff for an Order of Discipline pursuant to Rule 14(6) of the Discipline and Disbarment Rules of The North Carolina State Bar following the Entry of Default of the Defendant for failure to file an Answer or otherwise appear in this cause. The Hearing was held in the Council Chambers of The North Carolina State Bar. The Plaintiff was represented by David R. Johnson, and the Defendant was not present nor was anyone representing the Defendant present. From the record in the cause, the facts deemed admitted by the Defendant's default, and the additional evidence presented, the Hearing Committee makes the following FINDINGS OF FACT by clear, cogent, and convincing evidence:

1. The Complaint in the instant action was filed on December 3, 1982.
2. A Summons and Notice was duly issued at 3:15 o'clock p.m. on December 3, 1982, by B. E. James, Secretary of the Disciplinary Hearing Commission.
3. The Summons shows a return of service indicating personal service on the Defendant by F. Gene Massey, Deputy Sheriff of Fulton County, Georgia on December 16, 1982.

4. The Chairman of the Disciplinary Hearing Commission entered an Order Appointing the Hearing Committee and setting the time and place for hearing on January 6, 1983, which Order was served on Defendant in accordance with the rules.
5. The Defendant did not file an Answer or otherwise appear in this action within 20 days of service.
6. On January 24, 1983, the Plaintiff moved for an Entry of Default of the Defendant.
7. On January 28, 1983, the Secretary of the Disciplinary Hearing Commission made the Entry of Default of the Defendant.
8. On February 16, 1983, the Plaintiff filed a Motion for a Default Order of Discipline.
9. On February 22, 1983, the Defendant was notified of the change of location of the hearing from the Wake County Courthouse to the Council Chambers of The North Carolina State Bar. The Committee takes judicial notice that the Wake County Courthouse is one block down the street from The State Bar Building.
10. The Defendant did not file any Answer or appearance following the Entry of Default.
11. The Plaintiff 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 promulgated thereunder.
12. The Defendant was admitted to The North Carolina State Bar on September 3, 1976, and was at all times during the period in which his conduct is in question 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 and to the laws of the State of North Carolina.

13. During the period hereinafter referred to, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Asheville, Buncombe County, North Carolina.
14. The Defendant was appointed by the Court to represent Russcella Occie Salters, the mother of two minor children, in a petition to terminate parental rights in Buncombe County Superior Court File Number 71 J 543. At the time of his appointment, Ms. Salters was incarcerated in a prison in Florida.
15. Prior to April 16, 1981, the Defendant employed the Salenger Court Reporting Service, Inc. [hereinafter referred to as Salenger] to take the deposition of Mrs. Salters by written interrogatories. The Defendant advised Salenger that its fee would be handled by the Administrative Office of the Courts. Salenger took the deposition on April 16, 1981, and forwarded the deposition to the Defendant along with a bill for \$56.20.
16. The Defendant did not forward any money to Salenger or pay the bill of \$56.20. Salenger contacted the Defendant on several occasions. The Defendant insisted that the bill would be handled by the Administrative Office of the Courts.
17. Sometime after the disposition of the case, between June 16, 1981, and July 14, 1981, the Defendant reported to the Court that his necessary expenses to be paid by the State included the \$56.20 for the services of Salenger and petitioned for payment of his Counsel fee's and expenses including the \$56.20. On July 14, 1981, Judge Israel, Jr., approved payment of Counsel fees and expenses, including the \$56.20, from the Administrative Office of the Courts.

18. On July 24, 1981, the Administrative Office of the Courts issued a check payable to the Defendant for \$181.09 pursuant to the Order signed by Judge Israel. This check included payment of the \$56.20 due Salenger.
19. The defendant received the check, endorsed it, and received payment of it on or about July 31, 1981. The Defendant did not deposit the check in a trust account maintained by him to handle funds of clients. At the time the Defendant received the check, he maintained no bank checking accounts.
20. The Defendant did not forward any money to Salenger after receiving payment from the Administrative Office of the Courts although the funds he received included the amount due Salenger.
21. By letter dated April 9, 1982, addressed to the Chairman of the Grievance Committee of The North Carolina State Bar, the Defendant stated that "...I am advised that no payment [of the fees] has yet been made [by the Administrative Office of the Courts]."
22. The Chairman of the Grievance Committee issued a Second Letter of Notice to the Defendant on July 22, 1982, concerning the statements made by the Defendant in his letter of April 9, 1982, and the fact that the Administrative Office of the Courts had in fact sent to the Defendant a check including payment of the amount due Salenger.
23. The Defendant failed to respond to the Second Letter of Notice.

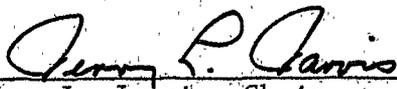
Based upon the foregoing FINDINGS OF FACT the Committee unanimously makes the following CONCLUSIONS OF LAW:

1. The Disciplinary Hearing Commission has grounds for personal jurisdiction, over the Defendant, has obtained personal jurisdiction over the Defendant, and has jurisdiction over the subject matter.

2. All factual allegations contained in the Complaint are deemed admitted by the Defendant pursuant to Rule 14(6) of the Discipline and Disbarment Rules of The North Carolina State Bar.
3. The Defendant has engaged in conduct constituting grounds for discipline under N. C. Gen. Stat. § 84-28(a) and (b) in that:
 - a) by receiving money intended to pay Salenger from the Administrative Office of the Courts and not forwarding the amount to Salenger, the Defendant engaged in conduct involving fraud, deceit, dishonesty, or misrepresentation and engaged in professional conduct adversely reflecting upon his fitness to practice law in violation of Disciplinary Rules 1-102(A)(4) and 1-102(A)(6), respectively, of the Code of Professional Responsibility of The North Carolina State Bar.
 - b) By advising the Chairman of the Grievance Committee that payment had not been made when the Defendant knew or should have known by virtue of his receipt of payment of the check that the statement was not in fact true, the Defendant knowingly made a false statement of fact and engaged in conduct involving fraud, deceit, dishonesty, or misrepresentation in violation of DR7-102(A)(5) and DR1-102(A)(4), respectively, of the Code of Professional Conduct of The North Carolina State Bar and made a knowing misrepresentation of fact pertaining to an allegation to The North Carolina State Bar in violation of N. C. Gen. Stat. § 84-28(b)(3).
 - c) By failing to respond to the Second Letter of Notice issued by the Chairman of the Grievance Committee, the Defendant failed to answer a formal inquiry of The North Carolina State Bar in violation of N. C. Gen. Stat. § 84-28(b)(3) and engaged in professional conduct adversely reflecting on his fitness to practice law in violation of DR1-102(A)(6) of the Code of Professional Responsibility of The North Carolina State Bar.

Pursuant to Rule 14(20) of the Discipline and Disbarment Rules, the Chairman of the Hearing Committee, with the express consent of the other members, hereby signs the foregoing FINDINGS OF FACT AND CONCLUSIONS OF LAW on behalf of the Hearing Committee.

This the 14th day of March, 1983.


Jerry L. Jarvis, Chairman
Hearing Committee

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Plaintiff)

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Defendant)

ORDER IMPOSING DISCIPLINE

This cause was heard by a duly appointed Hearing Committee of the Disciplinary Hearing Commission of The North Carolina State Bar on February 25, 1983, as recited in the FINDINGS OF FACT AND CONCLUSIONS OF LAW entered concurrently with this Order. After making the FINDINGS OF FACT AND CONCLUSIONS OF LAW, the Hearing Committee heard additional evidence relevant to the discipline to be imposed. Pursuant to Rule 14(19) that evidence is summarized as follows:

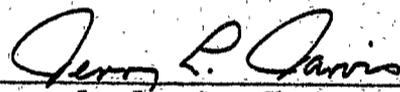
1. The Defendant was previously suspended from the practice of law for a period of 2 years in Disciplinary Hearing Commission File Number 81 DHC 3. The essence of the conduct for which the Defendant was disciplined in that cause was the failure to properly handle and account for funds entrusted to the Defendant on behalf of clients.
2. In July, 1982, the Defendant left his practice in Asheville, North Carolina without notifying clients, leaving it to another attorney to advise his clients that he had left town. Additionally, the Defendant failed to appear on behalf of a client facing criminal charges at a hearing on the charges and the judge presiding found that the Defendant had "impeded the administration of justice" by his conduct.

Based upon the FINDINGS OF FACT AND CONCLUSIONS OF LAW entered in this cause and the additional evidence relevant to the discipline to be imposed, the Hearing Committee unanimously enters the following ORDER IMPOSING DISCIPLINE:

1. The Defendant is disbarred from the practice of law in North Carolina.
2. The Defendant is taxed with the costs of the proceeding.

Pursuant to Rule 14(20) of the Discipline and Disbarment Rules, the Chairman of the Hearing Committee, with the express consent of the other members, hereby signs the foregoing Order Imposing Discipline on behalf of the Hearing Committee.

This the 14th day of March, 1983.



Jerry L. Jarvis, Chairman
Hearing Committee