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STATE OF NORTH CAROLINA
COUNTY OF WAKE

FILED

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

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
84G 0134(IV)

IN THE MATTER OF

SCOTT E. JARVIS,
ATTORNEY AT LAW

PUBLIC CENSURE

At its regular quarterly meeting on October 17, 1984, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the grievance filed against you by Mr. James T. Rusher. The Committee considered all of the evidence before it, including your written statement to the Committee. Pursuant to Section 13(10) of the Discipline and Disbarment Rules, the Committee found probable cause. Probable cause is defined under the Discipline and Disbarment Rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The rules also provide that if, after a finding of probable cause, the Committee determines that a complaint and a hearing are not warranted, the Committee may issue a public censure upon the acceptance of the same by the attorney. That determination has been made by the Committee and the Committee issues this Public Censure to you.

As Chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure and I am certain that you understand fully the spirit in which this duty is performed, that you will understand the censure, and appreciate its significance. The fact that a public censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the Committee feels that your conduct was excusable or less than a serious and substantial violation of the Code of Professional Responsibility.

In February, 1983 you represented Michael Hughey in a criminal nonsupport action brought by his wife, Sherrie Hughey in Madison County. You learned that the Department of Social Services was behind the attempt to get Michael Hughey to pay support since they had been paying support payments to Sherrie Hughey since 1981. You recommended to Michael Hughey that he needed legal separation papers and a divorce. At the direction of your client, you prepared a separation agreement that stated that at the time of the signing of the agreement, neither party owed the other any back support for the four minor children. You also prepared a Complaint for divorce asking that the terms of the separation agreement be incorporated into any judgment. Sherrie Hughey came by your office on March 23, 1983 and signed the separation agreement. You directed a paralegal to prepare an Entry of Appearance and an Answer to the Complaint for divorce for Sherrie Hughey's execution.

These were executed by Sherrie Hughey on March 23, 1983 and you filed them when you filed the divorce action on March 25, 1984 in Buncombe County, file number 83 CvD 0909.

The Madison County Child Support Enforcement Agency filed a motion to intervene in the divorce action in Buncombe County on April 22, 1983.

On April 28, 1983, you prepared a Notice of Dismissal in the divorce case, file number 83 CvD 0909. You also prepared a second Complaint for divorce on Michael Hughey's behalf.

On May 17, 1983, the Madison County Child Support Enforcement Agency filed a Complaint against Michael Hughey for back support paid to Sherrie Hughey in Madison County, file number 83 CvD 63.

On May 24, 1983, you filed the second Complaint for divorce in Buncombe County, file number 83 CvD 1493. This Complaint also sought to have the terms of the separation agreement incorporated into any judgment. You filed the second Complaint knowing that Madison County Child Support Enforcement had a claim against Michael Hughey.

On May 25, 1983 an Entry of Appearance and an Answer was prepared under your direction for execution by the opposing party, Sherrie Hughey. You filed these documents on May 27, 1983. You obtained a Judgment dissolving the marriage between the Hugheys on May 27, 1983 before Madison County Child Support Enforcement had an opportunity to intervene.

On June 1, 1983, you filed an Answer in the Madison County action on Michael Hughey's behalf claiming that the Buncombe County Judgment rendered the issue of Michael Hughey's support obligation res judicata.

By preparing an Entry of Appearance and an Answer for Sherrie Hughey in the lawsuit brought against her by your client, Michael Hughey, you violated DR5-105(A). Your preparation of documents for both sides of the lawsuit constituted a conflict of interest. Your filing the Entry of Appearance and Answer of Sherrie Hughey in file number 83 CvD 1493 allowed you to get a Judgment on Michael Hughey's behalf before Madison County Child Support Enforcement could intervene with their claim against Micheal Hughey. You filed these documents knowing of Madison County Child Support Enforcement's claim against Michael Hughey. Your attempt to cut off Madison County Child Support Enforcement's claim by this method was prejudicial to the administration of justice in violation of DR 1-102(A)(5).

You claimed to have been acting in your client's best interest, relying on his statement that he owed no back support. However, the question of back support was for the Court to decide. Your filing of the Entry of Appearance and Answer for Sherrie Hughey was an attempt to prevent the Court from reaching the back support issue by having it precluded through incorporation of the terms of the separation agreement in the Judgment.

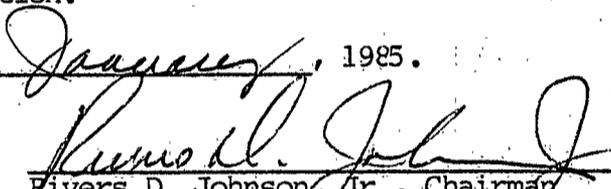
Your conduct was unprofessional. It violated not only the letter of the Code of Professional Responsibility but also its spirit. Your conduct was not the conduct expected of a member of the legal profession and an officer of the court. It brought discredit upon you, the profession, and the courts. It

damaged both your reputation and the profession's. It placed your privilege to serve the public as a lawyer in serious jeopardy.

The Committee is confident that this Public Censure will be heeded by you, that it will be remembered by you, and will be beneficial to you. The Committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and everpresent reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts.

Pursuant to Section 23 of the Discipline and Disbarment Rules, it is ordered that a certified copy of this Public Censure be forwarded to the Superior Court of Buncombe County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to policy adopted by the Council of the North Carolina State Bar on the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50.00 as the administrative costs in this action.

This the 7th day of January, 1985.


Rivers D. Johnson, Jr., Chairman
The Grievance Committee