

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 7

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
)
)
v.)
)
WOODROW W. BROWN, JR., ATTORNEY,)
Defendant)

FINDINGS OF FACT

This cause was heard on Friday, December 2, 1988 by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of Karen P. Boyle, Chairman, Harold Mitchell and Powell Majors, with Carolin D. Bakewell representing the North Carolina State Bar and defendant not appearing. Based upon the evidence introduced at the hearing, the hearing committee makes the following FINDINGS OF FACT:

1. The Plaintiff, the North Carolian State Bar, is a body duly organized under the laws of North Carolina and is the proper body 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, Woodrow W. Brown Jr., was admitted to the North Carolina State Bar in 1970 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During the periods referred to herein, Brown was engaged in the practice of law in the State of North Carolina and maintained an office in the City of Rocky Mount, North Carolina.
4. In February, 1987, Brown undertook to represent Nyewagi Oba (hereafter, Oba) respecting personal injuries and property damage Oba received in an automobile accident in February, 1987.
5. Brown and Oba did not reach a specific agreement as to the fee Brown would receive for his services, although it was understood that Brown would receive a percentage of Oba's recovery for his personal injury and that he would handle the property damage claim for no additional fee.
6. The property damage claim was resolved in March, 1987.
7. Oba discharged Brown orally during a telephone call on April 27,

1987. Thereafter, Oba sent Brown four letters, stating that Oba wished to discharge Brown.

8. Oba also notified Brown that he wished Brown to provide him with a written release, stating that Brown no longer represented Oba.

9. Brown refused to withdraw and to provide Oba with the release requested by Oba unless Oba paid Brown \$2,000.

10. Brown continued to act as Oba's attorney following April, 1987.

11. In March, 1988, Brown withdrew and provided Oba with a release.

12. In March, 1988, Brown attempted to assert a \$2,670 "lien" against any recovery Oba might receive in settlement of Oba's personal injury claim.

13. Brown calculated the \$2,670 lien by taking 1/3 of \$8,000, which was the amount for which Brown believed the personal injury claim could have been settled.

14. The highest offer made by the insurance company to Oba for his personal injury claim was \$4,000.

15. Oba's personal injury claim has not yet been settled.

16. Brown's failure to provide the release delayed settlement of Oba's personal injury claim.

17. On November 27, 1987, a Letter of Notice was sent to Brown by the Grievance Committee of the North Carolina State Bar respecting his representation of Oba.

18. The Letter of Notice was sent to 1805 Concord Street, Durham, N.C., which was Brown's official address on record with the North Carolina State Bar.

19. In February, 1988, Harry B. Warren, Investigator of the N.C. State Bar, telephoned Brown, who indicated that he had received the Letter of Notice but had not opened it. Brown indicated that he lived at 577 Starling Way, Rocky Mount, N.C.

20. On March 30, 1988, Brown mailed a Response to the Letter of Notice. The Response was not a full and fair response to the allegations in the Substance of Grievance as required by Rule 12(3) of the discipline and disbarment procedures of the North Carolina State Bar.

21. On April 25, 1988, Counsel for the North Carolina State Bar requested Brown to provide a more complete response to the Letter of Notice.

22. Brown failed to respond to the Letter of April 25, 1988, which was mailed to the Rocky Mount address.

23. On or about September 27, 1988, Counsel for the North Carolina State Bar mailed interrogatories to Brown's Rocky Mount address.

24. Brown failed to answer or object to the interrogatories.

25. On or about October 31, 1988, Counsel for the North Carolina State Bar sent Brown a Notice of Deposition, scheduling Brown's deposition for November 9, 1988.

26. The Notice of Deposition was sent to 577 Starling Way, Rocky Mount, N.C., but Brown did not accept or open the Notice.

27. Although the Notice was not timely, Brown did not respond to the Notice or seek a continuance of the deposition.

28. Brown was sent proper notice of the disciplinary hearing of December 2, 1988, but failed to appear at the hearing or to request a continuance.

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

1. After he was discharged by Oba on April 27, 1988, Brown was entitled to compensation only in the amount of the reasonable value of his services rendered as of the date of discharge;

2. Brown's refusal to withdraw unless he was paid \$2,000, and his assertion of a \$2,670 lien constituted an attempt to collect a clearly excessive fee, in violation of Rule 2.6(a);

3. Brown failed to withdraw when requested to do so by a client, in violation of Rule 2.8(b)(4).

4. Brown failed to provide Oba with a release in a timely fashion, in violation of Rule 2.8(a).

5. Brown's failure to respond to the Letter of Notice in a timely fashion is a violation of G.S. 84-28(b)(3).

6. Brown's failure to respond in a timely fashion to the Bar's initial Letter of Notice, his lack of cooperation throughout the Bar's investigation of the allegations against him and his failure to attend the disciplinary hearing grossly aggravate the seriousness of the underlying offenses committed by Brown.

This the 2nd day of December, 1988,
nunc pro tunc


Karen P. Boyle, Esq.
Chairman, Disciplinary Hearing Committee
For the Committee

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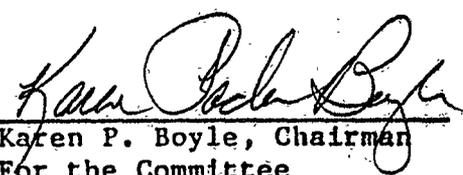
ORDER OF DISCIPLINE

This matter coming on to be heard and being heard by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar on Friday, December 2, 1988;

BASED UPON the FINDINGS OF FACT and CONCLUSIONS OF LAW entered herein, and further based upon the evidence admitted at the hearing and the arguments of Counsel for the North Carolina State Bar, the hearing Committee enters the following ORDER OF DISCIPLINE:

1. The Defendant, Woodrow W. Brown, Jr., is suspended from the practice of law for one year.
2. The costs of this action, excluding costs incurred by the North Carolina State Bar in attempting to take Defendant's deposition, are hereby taxed against the Defendant.
3. The Defendant shall comply with Section 24 of Article IX of the Rules and Regulations of the North Carolina State Bar.

This the 2 day of December, 1988.
nunc pro tunc


Karen P. Boyle, Chairman
For the Committee

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