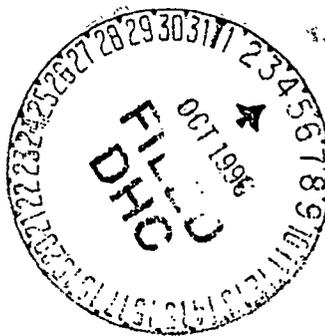


NORTH CAROLINA

WAKE COUNTY



7892

BEFORE THE
 DISCIPLINARY HEARING COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 96 DHC 8

THE NORTH CAROLINA STATE BAR,)
 Plaintiff)
 v.)
 BILLY H. MASON, Attorney,)
 Defendant)

FINDINGS OF FACT
 AND
 CONCLUSIONS OF LAW

This matter coming on to be heard and being heard on October 4, 1996 before a hearing committee composed of Robert B. Smith, Chair, Kenneth M. Smith, and Anthony E. Foriest; with A. Root Edmonson representing the North Carolina State Bar and Billy H. Mason appearing pro se; and based upon the default of the Defendant for his failure to file an Answer or otherwise plead in this matter, the hearing committee makes 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, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.
2. The Defendant, Billy H. Mason (hereinafter Mason), was admitted to the North Carolina State Bar on September 6, 1977 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 times relevant to this Complaint, Mason was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Wilmington, New Hanover County, North Carolina.
4. On or about March 16, 1990, Susan L. Price (hereinafter Ms. Price) retained Mason to represent her in obtaining an absolute divorce from her husband, Robert A. Price, and seeking a division of their marital property. Ms. Price paid Mason the retainer he requested.

00328

5. Mason filed a Complaint on Ms. Price's behalf in New Hanover District Court on June 21, 1990 seeking absolute divorce and equitable distribution.

6. At the time the Complaint was filed, Ms. Price lived in Alaska and was not available when Mason first scheduled the absolute divorce for hearing. Ms. Price's husband eventually secured the absolute divorce in April, 1991.

7. Mason attempted to negotiate a property settlement with the attorney for Mr. Price. The attorneys' efforts to settle the property division between the parties were unsuccessful.

8. On September 16, 1991, the Prices' equitable distribution matter was heard before Judge Charles E. Rice, III. In his ruling announced from the bench, Judge Rice ordered that the real property located at 1211 Snapper Lane at Carolina Beach, NC owned by the Prices (hereinafter Carolina Beach property) be sold and, after deduction of costs and \$6,000 specifically distributed, the remainder of the proceeds to be equally divided.

9. Mason was responsible for preparing an equitable distribution order for Judge Rice's signature.

10. Mason failed to have an equitable distribution order signed and filed in the Price matter.

11. After the equitable distribution hearing, Ms. Price could not get the Carolina Beach property listed for sale because Mr. Price would not cooperate. Ms. Price advised Mason's office of her difficulty and sought Mason's assistance in enforcing the equitable distribution order.

12. In 1992, Ms. Price remarried (becoming Susan Wheeler) and moved to Missouri. Ms. Wheeler advised Mason's office of her new name and address.

13. Ms. Wheeler made subsequent attempts to get Mason to enforce the equitable distribution order so that the Carolina Beach property could be sold.

14. Mason still did not get the equitable distribution order signed and filed.

15. Judge Charles Rice, III is no longer a district court judge.

16. Susan Wheeler has been harmed by Mason's failure to get the equitable distribution order signed and filed because the equitable distribution matter may have to be heard again by another district court judge before Ms. Wheeler will have an order distributing the marital property which can be enforced by the New Hanover courts.

BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

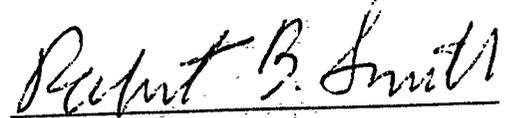
CONCLUSIONS OF LAW

1. The hearing committee has jurisdiction over the Defendant, Billy H. Mason, in that he was served with the Summons and Complaint in this matter by certified mail, return receipt requested, restricted delivery on July 25, 1996. Mason was also served with notice of the time and place of this hearing.

2. Defendant's foregoing actions constitute grounds for discipline pursuant to NCGS Sec. 84-28(b)(2) in that Defendant violated the NC Rules of Professional Conduct as follows:

- (a) By neglecting to get an equitable distribution order signed by Judge Rice after the September 16, 1991 Price equitable distribution hearing in New Hanover District Court, Mason failed to act with reasonable diligence and promptness in representing a client in violation of Rule 6(b)(3) and intentionally failed to seek the lawful objectives of his client through reasonably available means in violation of Rule 7.1(a)(1).
- (b) By failing to get an equitable distribution order signed by Judge Rice before he left the bench, Mason has prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(a)(3).

Signed this is the 4th day of October, 1996 with the full knowledge and consent of the other members of the hearing committee.


Robert B. Smith, Chair
Hearing Committee

00930

4. A Reprimand issued by the Grievance Committee in 95G0326(IR) for Mason's failure to respond to lawful demands for information concerning the grievance made by the District Bar and the State Bar.

2. The following factor is found as neither aggravating nor mitigating:

Mason was transferred to disability inactive status as a member of the North Carolina State Bar from December 11, 1990 to May 23, 1991 by order of the Senior Resident Superior Court Judge of the Fifth Judicial District.

BASED UPON the foregoing factors and the arguments of counsel, the hearing committee hereby enters the following

ORDER OF DISCIPLINE

1. The license to practice law in North Carolina of the Defendant, Billy H. Mason, is suspended for a period of two years, effective thirty (30) days from service of this order.

2. As a condition precedent to reinstatement of his license, Mason must prove to a hearing committee of the Disciplinary Hearing Commission:

a. That the circumstances of Mason's life have changed sufficiently to satisfy the hearing committee that Mason is not being adversely affected by any condition which he has that will interfere with Mason performing the obligations necessary to the practice of law;

b. That he has been examined by a board certified psychiatrist approved by the North Carolina State Bar;

c. That in the opinion of the psychiatrist, Mason has no mental or emotional problem which will interfere with Mason performing the obligations necessary to the practice of law; and

d. That there is little likelihood that any condition which Mason has will cause any threat of harm to his clients if Mason is reinstated.

3. The earliest date that Mason may file a request that a hearing be scheduled to satisfy his obligations set out in the preceding paragraph is ninety (90) days prior to the two year anniversary of the effective date of his suspension. Even if the hearing is scheduled and concluded prior to the anniversary date, Mason may not be reinstated prior to the two year anniversary of the effective date of this suspension.

4. Mason, shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days from the date of service of this order.

5. Mason, shall pay the costs of this proceeding as assessed by the Secretary within ninety (90) days of receipt of the bill of costs.

6. Mason, shall comply with all provisions of 27 NCAC 1B, § .0124 of the North Carolina State Bar's Discipline & Disability Rules.

Signed by the undersigned Chair with the knowledge and consent of the other members of the hearing committee, this the 4 day of October, 1996.

Robert B. Smith, Jr.

Robert B. Smith, Chair
Hearing Committee

00933