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NORTH CAROLINA
WAKE COUNTY



BEFORE THE DISCIPLINARY HEARING COMMISSION
OF THE NORTH CAROLINA STATE BAR
96 DHC 17

THE NORTH CAROLINA STATE BAR,)
)
Plaintiff,)
)
vs.)
)
WILLIAM D. MCNAULL, ATTORNEY)
)
Defendant.)

CONSENT ORDER OF DISCIPLINE

THIS MATTER, coming before the undersigned Hearing Committee of the Disciplinary Hearing Commission composed of Robert B. Smith, Chair, Franklin E. Martin and A. James Early III, pursuant to Section .0114(h) of the Discipline and Disability Rules of the North Carolina State Bar; and it appearing that both parties have agreed to waive a formal hearing in this matter and it further appearing that both parties stipulate and agree to the following Findings of Fact and Conclusions of Law recited in this consent order and to the discipline imposed, the Hearing Committee therefore enters 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, William D. McNaull (hereafter, McNaull), was admitted to the North Carolina State Bar in 1963, 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 all of the relevant periods referred to herein, McNaull was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Charlotte, Mecklenburg County, North Carolina.

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4. Prior to Sept. 23, 1993, Janet Bonagura (hereafter, Bonagura), swore out a criminal warrant against her former boyfriend, Louis Frederick Bibb (hereafter, Bibb). The warrant alleged that Bibb had been stalking and harassing Bonagura since their breakup.

5. Prior to Sept. 23, 1993, Bibb obtained photographs which depicted Bonagura in the nude.

6. In August, 1993, Bibb informed McNaull about the criminal stalking and harrassment charges that had been filed against him by Bonagura.

7. Prior to the fall of 1993, McNaull had known Bibb for approximately 10 years and from 1989 until summer of 1993, he regularly ate breakfast with both Bonagura and Bibb at a local restaurant.

8. As a result of McNaull's friendship with both Bibb and Bonagura, McNaull informed Bibb that he could not represent either Bibb or Bonagura as long as there was a controversy between them because he felt that he had a conflict of interest.

9. Prior to September 23, 1993, Bibb informed McNaull that he and Bonagura had worked out their problems and that Bonagura had agreed to drop the stalking charges against him.

10. Bibb requested McNaull to confirm this with Bonagura and requested McNaull to help them both in facilitating a resolution of this matter since they had agreed as to what they wanted done.

11. In September of 1993 McNaull spoke to Bonagura by telephone at which time Bonagura mentioned that she had agreed to seek a dismissal of the criminal charges against Bibb. In these conversations, Bonagura asked McNaull to secure the photographs from Bibb and deliver them to her.

12. The criminal charges against Bibb were set for hearing on the morning of Oct. 1, 1993 in the Mecklenburg County Courthouse.

13. McNaull informed Bibb that if the matter could not be resolved on October 1, 1993 he would provide Bibb with the new court date and Bibb would need to hire a lawyer to represent him regarding the stalking charges.

14. On Oct. 1, 1993, prior to the hearing on the criminal charges and prior to meeting with Bonagura, McNaull approached Assistant District Attorney Bruce Lillie and asked to speak with him about the Bibb case.

15. McNaull requested permission from Lillie to speak with Bonagura.

16. McNaull explained to Lillie that he knew both Bibb and Bonagura and felt caught in the middle.

17. McNaull told Lillie that he wanted Lillie to speak with Bonagura after McNaull spoke with her to make sure she felt comfortable with any decisions that had been made.

18. Lillie told McNaull that he could speak with Bonagura and explained to McNaull that if Bonagura wished to drop the criminal charges he would ensure this was what she wanted to do.

19. Lillie pointed out that it would be his decision as to whether to proceed with or dismiss the case and not the prosecuting witnesses.

20. After meeting with Lillie, McNaull met with Bonagura at which time he told Bonagura that he had brought the photographs pursuant to her request.

21. During the October 1, 1993 meeting, McNaull told Bonagura that Bibb instructed him not to give her the pictures unless she asked the district attorney to drop the stalking and harassment charges.

22. Nevertheless during the Oct. 1, 1993 meeting and before Bonagura spoke to the district attorney, McNaull gave Bonagura the photographs. Immediately thereafter, Bonagura told Bruce Lillie, the assistant district attorney to whom the case against Bibb had been assigned, that she desired to drop the charges against Bibb.

23. Lillie thereafter voluntarily dismissed the criminal charges against Bibb.

24. On November 29, 1993, McNaull was charged with one count of felony extortion.

25. On June 11, 1996, the D. A.'s office took a voluntary dismissal of the charge against McNaull.

BASED UPON the foregoing Findings of Fact, the Committee enters the following:

CONCLUSION OF LAW

1. By telling Bonagura that Bibb instructed him not to give her the photos unless she asked the district attorney to drop the criminal charges against Bibb, McNaull engaged in conduct prejudicial to the administration of justice, in violation of Rule 1.2(d).

Based on the foregoing FINDINGS OF FACT and CONCLUSION OF LAW and upon the consent of the parties, the Hearing Committee enters the following:

FACTORS IN MITIGATION.

1. Absence of any prior disciplinary record
2. Absence of a dishonest or selfish motive
3. Full and free disclosure to the Committee and cooperative attitude toward the proceedings.
4. Excellent character and reputation.
5. The conduct in question which is the subject of this disciplinary proceeding occurred approximately 3 1/2 years ago.
6. McNaull has been the subject of a criminal proceeding regarding this matter which proceeding was pending for 2 1/2 years before the State took a voluntary dismissal on June 11, 1996.

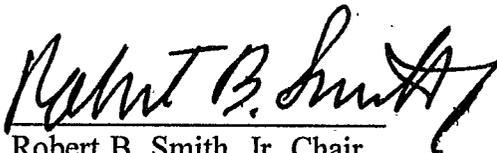
BASED UPON the foregoing FINDINGS OF FACT and CONCLUSION OF LAW and based upon the consent of the parties, the Hearing Committee enters the following

ORDER OF DISCIPLINE

7. McNaull is hereby suspended from the practice of law for six months. This suspension shall be stayed for one year based on the following conditions:
 - (a) McNaull shall successfully complete an extra 12 hours of CLE in ethics prior to the end of the stay;
 - (b) McNaull shall violate no provisions of the Rules of Professional Conduct during the one year stay period;
 - (c) McNaull shall violate no laws of the state of North Carolina during the one year stay period;
 - (d) McNaull shall pay the costs of this proceeding as determined by the Secretary of the North Carolina State Bar.

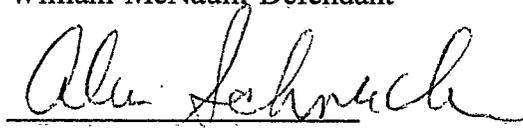
Signed by the Hearing Committee Chair with the consent of the other members of the hearing committee.

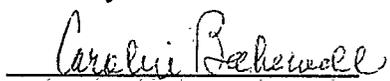
This the 14 day of May, 1997.


Robert B. Smith, Jr. Chair
Disciplinary Hearing Committee

consented to:


William McNaull, Defendant


Alan M. Schneider
Attorney for Defendant


Carolin Bakewell
Attorney for Plaintiff