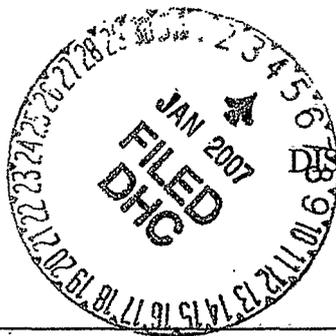


NORTH CAROLINA
WAKE COUNTY



10114

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
06 BCR 1

IN THE MATTER OF:)
)
)
REINSTATEMENT OF ROBERT WINFREY)

ORDER RECOMMENDING
DENYING REINSTATEMENT

This matter came on to be heard and was heard by a hearing committee of the Disciplinary Hearing Commission composed of Karen Eady-Williams, Chair, T. Richard Kane and Rebecca Brownlee; with the petitioner, Robert Winfrey ("Winfrey") appearing *pro se* and with A. Root Edmonson representing the North Carolina State Bar. Based upon the evidence presented at the hearing and the arguments of the parties, the hearing committee makes the following:

FINDINGS OF FACT

1. Not more than six months or less than 60 days before filing his petition for reinstatement, Winfrey's notice of intent to seek re-instatement was published in the official publication of the North Carolina State Bar. The notice informed members of the Bar about petitioner's intent to file an application for reinstatement. Further, it requested that all interested individuals file notice of their opposition or concurrence with the secretary within 60 days after the date of publication.
2. Winfrey attempted to notify the complainant in regard to the conduct that led to his disbarment, Teresa Pierce Perry, of his intent to seek reinstatement but the notice was returned as undeliverable.
3. Winfrey was never convicted of a criminal offense and never lost his citizenship.
4. Winfrey properly wound down his law practice before the effective date of his disbarment.
5. Winfrey complied with all applicable orders of the North Carolina State Bar and the courts relating to the matters resulting in disbarment.
6. Winfrey did not engage in the unauthorized practice of law during his disbarment.
7. Winfrey did not engage in conduct during the time of his disbarment that would be grounds for discipline.

8. Winfrey took a three hour CLE on conflicts and a three hour CLE on real estate.
9. The order of disbarment found that Winfrey had reimbursed his victim.
10. The Client Security Fund did not pay any claims to any of Winfrey's clients.
11. Winfrey paid all dues and fees owed to the North Carolina State Bar.

Winfrey was the sole witness at the hearing. Because Winfrey's testimony was uncorroborated by any other evidence, the hearing committee does not find the remaining paragraphs of this order to be "facts," but includes them as Winfrey's representations to the hearing committee.

12. After earning a J.D. from Campbell University in 1981, Winfrey entered Harvard University Divinity School in 1990. There he earned a Masters in Theological Science, having focused on world religions, in 1992.

13. In 1994, Winfrey began teaching various classes for Shaw University in High Point, NC. In the fall of 1999, he was asked by the new director of Shaw's satellite campus in Kannapolis, NC to teach two additional classes there. While teaching two ethics classes, Winfrey developed an understanding of a fundamental error in his belief system. Winfrey had believed that "the end justified the means." He felt justified in using accessible resources that belonged to others as long as he had no intent to steal, because the resources allowed him to help others who could not pay him.

14. Winfrey came to understand a fundamental premise upon which the nonviolent philosophies of Gandhi and King were based: "the means determined the goal that is ultimately reached." What Winfrey came to understand was that the means to accomplish a goal was as important as the goal itself.

15. Winfrey was tested when he was forced to make a decision between honoring his revised belief system or suffering severe financial loss. He explained that:

- a. In an effort to protect his home and car while honoring his debts, Winfrey found it necessary to file not one, but two, Chapter 13 bankruptcy petitions.
- b. The significance of the multiple filings was that, since the petitioner had previously filed a Chapter 13 case, the rules of the Bankruptcy Court of the Middle District of North Carolina required automatic dismissal if a scheduled payment was missed during the first year.
- c. In June 2003, Winfrey faced an ethical dilemma in his workplace. He had begun working as the assistant to the publisher for a small newspaper in Greensboro, NC. His financial arrangement with that newspaper provided sufficient income to

meet his financial obligations, including the scheduled bankruptcy payments.

- d. Winfrey learned that the newspaper's actual circulation was drastically smaller than what was being told to potential advertisers. His solution was to stop his efforts to sell advertising and to focus on increasing circulation.
- e. Winfrey's employer then modified his compensation such that he was required to sell more advertising to equal the compensation that he had been receiving.
- f. Winfrey refused to engage in the unethical conduct of using false circulation numbers in order to sell advertising even though he knew that it would result in the loss of his job, his home and his car.

16. In the last three years, Winfrey has been employed in two positions where the handling of money has been an integral part of his duties. The first employment was with a nonprofit agency, The Practical Science Institute, Inc. There, Winfrey was responsible for the handling and tracking of all funds that came into the organization. The second position was as the assistant manager at The HoneyBee Health Food Store. Both employers praised Winfrey for his level of integrity.

17. Winfrey is presently involved with a project with Dr. Robert Powell, Sr. publishing a book on Sacred Geometry.

18. Between September 1991 and April 2004, Winfrey received spiritual counseling from Rev. Barbara Lynn Freed.

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

CONCLUSIONS OF LAW

1. Winfrey had the burden of proving all of the elements of 27 NCAC 1B, § .0125(a)(3)(A-N) and (4)(A), the Discipline and Disability Rules, by clear, cogent and convincing evidence.
2. Winfrey published adequate notice of his intent to seek reinstatement in compliance with Rule .0125(a)(3)(A).
3. Winfrey attempted to notify the complainant that led to his disciplinary proceeding of his intent to seek reinstatement in compliance with Rule .0125(a)(3)(B).
4. Winfrey failed to prove, pursuant to Rule .0125(a)(3)(C), that he has reformed and presently possesses the moral character required for admission to practice law in this state, taking into account the gravity of the misconduct which resulted in the Order of Disbarment.

5. Winfrey failed to prove, pursuant to Rule .0125(a)(3)(D), that his reinstatement to the practice of law will not be detrimental to the integrity and standing of the bar, the administration of justice, or the public's interest.

6. Winfrey did not have to prove that his citizenship has been restored in compliance with Rule .0125(a)(3)(E).

7. Winfrey wound down his law practice after his disbarment in compliance with Rule .0125(a)(3)(F).

8. Winfrey complied with all applicable orders of the North Carolina State Bar in compliance with Rule .0125(a)(3)(G).

9. There were no orders of the courts related to the offense for which he was disbarred for Winfrey to comply with pursuant to Rule .0125(a)(3)(H).

10. Winfrey did not engage in the unauthorized practice of law during his disbarment in compliance with Rule .0125(a)(3)(I).

11. Winfrey did not engage in conduct during the time of his disbarment that would be grounds for discipline under G. S. §84-28(b) in compliance with Rule .0125(a)(3)(J).

12. Winfrey failed to prove that he understands the current Rules of Professional Conduct in compliance with Rule .0125(a)(3)(K).

13. The provisions of Rule .0125(a)(3)(L) and (M) did not apply to Winfrey's reinstatement petition.

14. Winfrey paid all dues and fees owed to the North Carolina State Bar in compliance with Rule .0125(a)(3)(N).

15. Winfrey failed to prove that he has the competency and learning in law required to practice law in this state in compliance with Rule .0125(a)(4)(A).

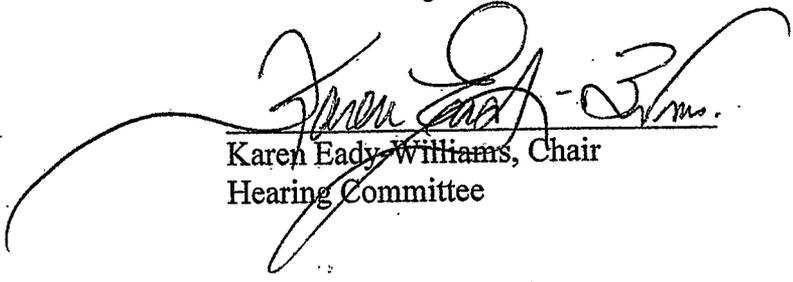
BASED UPON the foregoing Findings of Fact and Conclusions of Law, the hearing committee enters the following Order:

1. The hearing committee considered all of the evidence offered at Winfrey's reinstatement hearing and recommends to the Council that Winfrey's petition for reinstatement to the practice of law in North Carolina be denied.

2. If Winfrey chooses not to ask the Council to review the decision of this hearing committee, this order will constitute the final order in this matter.

Signed by the Chair of the hearing committee with the full knowledge and consent of the

other members of the hearing committee this the 3rd day of January 2007.



Karen Eady-Williams

Karen Eady-Williams, Chair
Hearing Committee