

STATE OF NORTH CAROLINA
WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

JESSE W. JONES, Attorney,

Defendant

CONSENT ORDER
OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of Beverly T. Beal, Chair, Richard V. Bennett, and Warren G. McDonald pursuant to 27 N.C. Admin. Code 1B § .0114. Plaintiff, the North Carolina State Bar, was represented by A. Root Edmonson. Defendant, Jesse W. Jones, was represented by Robert E. Zaytoun. Defendant waives a formal hearing in this matter and both parties stipulate and consent to the entry of this order and to the discipline imposed. Defendant waives any right to appeal this consent order or to challenge in any way the sufficiency of the findings.

Based upon the consent of the parties, the Hearing Panel finds by clear, cogent and convincing evidence, 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, Jesse W. Jones (hereinafter "Jones") was admitted to the North Carolina State Bar on August 26, 1994 and was at the 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 order, Jones actively engaged in the practice of law in the State of North Carolina and maintained a law office in the city of Lillington, Harnett County, North Carolina.

4. Jones was properly served with the summons and complaint in this matter.

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5. On January 24, 2013, Jones was in the hallway of the courthouse in Lillington talking to opposing counsel, Chad Wunsch, about a domestic case in which Jones represented the wife. Wunsch's client was also present. Jones became upset and started yelling and otherwise acting in an unprofessional manner. As a result, Wunsch and his client had to leave the courthouse.

6. On February 28, 2013, Jones called opposing counsel in a domestic case, Heather Williams, who had filed a sanctions motion to get her client's attorney fees paid by Jones' client. Jones told Williams: "I got your f---ing motion." Jones went on to disparage Williams personally, including saying, "your Dad is well known, but you aren't sh--." Williams hung up on Jones but he called back and continued to lambast Williams.

7. On April 11, 2013, Jones attended a mediation involving distribution of assets in a domestic case in which Jones represented the husband. After Jones and opposing counsel gave the mediator the respective positions of the parties, Jones jumped up and stormed into the room where the opposing party was located and screamed at her, pounding his fists on the table and cursing her.

8. Jones and Gerald Hayes represented opposing parties in a domestic case. After the clients had engaged in a physical altercation, they took out cross warrants against each other. On April 18, 2013, Hayes looked for Jones in the courthouse to get Jones to go with him to dismiss the cross warrants (which is common practice in cases where the parties are represented in a related domestic case). When Hayes found Jones in the lawyers' lounge and proposed that they should go get rid of the criminal charges, Jones got in Hayes' face and yelled and cursed at him.

9. On May 28, 2015, LTC David C. Kamka and his wife were in Courtroom 2 in the Harnett County Courthouse as witnesses against a criminal defendant represented by Jones.

10. At a recess in the court's proceedings, Jones approached to within two to three feet of the Kamkas, aimed his phone camera at the Kamkas and either took their picture or pretended to do so. The Kamkas believed that Jones did this to intimidate them as potential witnesses or to harass them.

Based upon the foregoing Findings of Fact, and the consent of the parties, the Hearing Panel makes the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel and the Disciplinary Hearing Commission has jurisdiction over Defendant, Jesse W. Jones, and over the subject matter of this proceeding.

2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. §§ 84-28(b)(1) and (b)(2) in that Defendant violated § 84-28(b)(1) and the Rules of Professional Conduct in effect at the time of his actions as follows:

- (a) by yelling at Wunsch and acting unprofessionally in the presence of Wunsch's client in the courthouse while representing a client, Jones engaged in undignified or discourteous conduct that was degrading to a tribunal in violation of Rule 3.5(a)(4)(B); used means that have no substantial purpose other than to embarrass, delay or burden a third person in violation of Rule 4.4(a); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (b) by personally disparaging opposing counsel Williams after receiving Williams' motion, Jones used means that have no substantial purpose other than to embarrass, delay or burden a third person in violation of Rule 4.4(a); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) by pounding his fist on the table and cursing at the opposing party while participating in a mediation, Jones communicated about the subject of the representation with a person Jones knew to be represented by another lawyer in the matter in violation of Rule 4.2(a); engaged in undignified or discourteous conduct that was degrading to a tribunal in violation of Rule 3.5(a)(4)(B); used means that have no substantial purpose other than to embarrass, delay or burden a third person in violation of Rule 4.4(a); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (d) by yelling and cursing at Hayes after Hayes asked Jones to accompany him to the courtroom to dispose of matters for their respective clients, Jones engaged in undignified or discourteous conduct that was degrading to a tribunal in violation of Rule 3.5(a)(4)(B); used means that have no substantial purpose other than to embarrass, delay or burden a third person in violation of Rule 4.4(a); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
- (e) by approaching the Kamkas while they were in the courtroom as possible witnesses against Jones' client and pointing his camera at them to intimidate or harass them, Jones engaged in undignified or discourteous conduct that was degrading to a tribunal in violation of Rule 3.5(a)(4)(B); used means that had no substantial purpose other than to embarrass, delay or burden a third person in violation of Rule 4.4(a); and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

Based upon the foregoing Findings of Fact and Conclusions of Law, and the consent of the parties, the Hearing Panel finds by clear, cogent, and convincing evidence the following

ADDITIONAL FINDINGS REGARDING DISCIPLINE

1. Jones acknowledges that the above-described behavior was inappropriate.

2. Because he realized that domestic cases caused him to engage in undignified or discourteous conduct, Jones chose to cease representing clients in domestic cases prior to the complaint being filed in this matter.

3. After the complaint was filed, Jones fully cooperated in obtaining medical evaluations recommended by the State Bar to determine whether there might be a medical reason for Jones' behavior that resulted in this complaint. He has continued his treatment with Dr. Thomas English to improve stress management and emotional reactivity management.

4. Jones received a great deal of support from his clients after the complaint was filed.

5. Jones received an Admonition in 1999 for loaning a client funds to get out on bond in violation of Rule 1.8(e).

6. Jones received a Reprimand in November 2008 for speaking to the press and playing an audiotape of allegedly exculpatory evidence during the pendency of his client's criminal case in violation of Rules 3.6(a) and 8.4(d).

Based upon the Findings of Fact, Conclusions of Law, Additional Findings Regarding Discipline, and the consent of the parties, the Hearing Panel makes the following

ADDITIONAL CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel has carefully considered all of the different forms of discipline available to it. In addition, the Hearing Panel has considered all of the factors enumerated in Rule .0114(w) of the Discipline and Disability Rules of the State Bar, 27 N.C. Admin. Code 1B § .0114(w).

2. The Hearing Panel concludes the following factors from Rule .0114(w)(1) warrant consideration of suspension of Defendant's license:

- (a) negative impact of defendant's actions on the public's perception of the profession;
- (b) negative impact of the defendant's actions on the administration of justice; and
- (c) the effect of defendant's conduct on third parties.

3. The Hearing Panel has carefully considered all of the factors enumerated in Rule .0114(w)(2) and concludes that none of the factors requiring consideration of disbarment are present in this case.

4. The Hearing Panel has carefully considered all of the factors enumerated in Rule .0114(w)(3) and determines that the following factors are applicable:

- (a) Prior discipline;

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- (b) Multiple offenses;
- (c) Effect of physical or mental impairment on the conduct in question;
- (d) Absence of a dishonest or selfish motive;
- (e) Cooperative attitude toward the proceedings; and
- (f) Interim rehabilitation.

5. The Hearing Panel has considered admonition, reprimand and censure as potential discipline but finds that any sanction less than suspension would fail to acknowledge the seriousness of the offenses committed by Jones.

6. In light of the significant harm and the potential harm Jones' conduct had on the public's perception of the profession and the administration of, the Hearing Panel concludes that a suspension of Jones' license, stayed upon compliance with conditions, is the only discipline that:

- (a) will adequately protect the public;
- (b) acknowledges the seriousness of the offenses Defendant committed; and
- (c) sends a proper message to attorneys and the public regarding the conduct expected of members of the Bar of this State.

Based upon the foregoing Findings of Fact, Conclusions of Law, Additional Findings and Conclusions Regarding Discipline, and with the consent of the parties, the Hearing Panel enters the following

ORDER OF DISCIPLINE.

1. Defendant, Jesse W. Jones, is hereby suspended from the practice of law for one year, effective 30 days from service of this order upon him.

2. The one year suspension is stayed for a period of three years as long as Jones complies, and continues to comply during the period of the stay, with the following conditions:

- (a) Jones shall continue treatment with Dr. Thomas English, or some other treating therapist approved by the State Bar, as often as recommended by the therapist, but not less than quarterly.
- (b) Jones shall have Dr. Thomas English, or other approved therapist, report to the State Bar each quarter that Jones is in compliance with the conditions in this order. Those reports shall be due by the 1st day of the month in the months of January, April, July and October. It is Jones' obligation to ensure that the

reports are timely submitted. Jones will sign all necessary releases or documents to authorize Dr. Thomas English, or other approved therapist, to make these reports, and to otherwise respond to requests for information from the Office of Counsel about Jones' condition and treatment. The costs associated with compliance with this paragraph shall be at Jones' sole expense;

- (c) Jones shall respond to all letters of notice and requests for information from the State Bar by the deadlines stated in the communication;
- (d) Jones shall timely pay all State Bar membership dues and Client Security Fund assessments;
- (e) Jones shall timely comply with his State Bar CLE requirements and will pay all fees and costs assessed by the applicable deadline;
- (f) Jones shall not violate any federal or state laws, other than minor traffic violations;
- (g) Defendant shall not violate any provision of the North Carolina Rules of Professional Conduct; and
- (h) Jones shall pay the costs of this proceeding within 30 days of service of the statement of costs upon him by the Secretary of the State Bar.

3. No conduct that Jones has engaged in prior to the entry of this order shall be considered a violation of any condition of this order.

4. Jones is taxed with the administrative fees and costs of this action as assessed by the Secretary, which shall be paid within 30 days of service of the notice of costs upon Defendant.

5. If the stay of the suspension is lifted at any time and the suspension of Jones' law license is activated for any reason, before seeking reinstatement of his license to practice law, Jones must show by clear, cogent and convincing evidence that he has complied with each of the following conditions:

- (a) Submitted his license and membership card to the Secretary of the State Bar within 30 days after the effective date of the order suspending his law license;
- (b) Complied with all provisions of 27 N.C.A.C. Chapter 1, Subchapter B, Section .0124 of the State Bar Discipline & Disability Rules on a timely basis;
- (c) Demonstrated that at the time of his application for reinstatement he is not suffering from any disability or condition that would impair his current ability to competently engage in the practice of law;

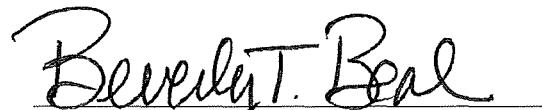
(d) Provided the Office of Counsel with releases authorizing and instructing his medical, psychological and mental health care providers to provide to the Office of Counsel all medical records relating to his evaluation, prognosis, care or treatment, and authorizing and instructing such providers to respond to requests for information by the Office of Counsel; and

(e) Paid all outstanding membership fees, Client Security Fund assessments and costs assessed by the DHC or the State Bar and complied with all continuing legal education requirements imposed by the State Bar.

6. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C.A.C. 1B § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout any period of stayed suspension.

7. The medical records produced by Jones' medical providers and therapist shall be **sealed** and not made a part of the public record unless it is necessary to file a motion to lift the stay of Jones' suspension.

11th Signed by the Chair with the consent of the other Hearing Panel members, this the day of February 2018.

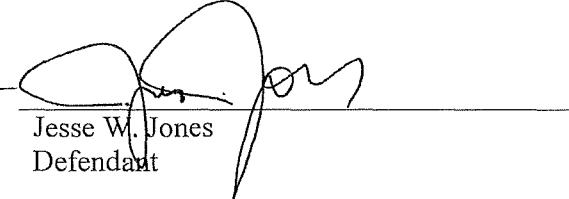


Beverly T. Beal, Chair
Disciplinary Hearing Panel

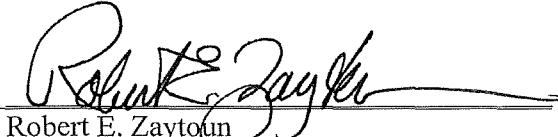
CONSENTED TO BY:



A.R. Edmonson
Attorney for Plaintiff



Jesse W. Jones
Defendant



Robert E. Zaytoun
Counsel for Defendant