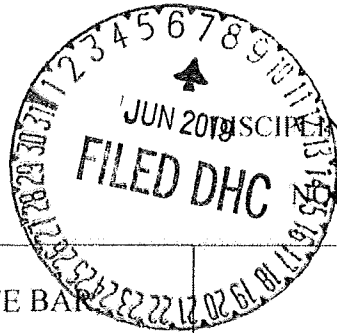


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
18 DHC 25

THE NORTH CAROLINA STATE BAR

Plaintiff

ORDER OF DISCIPLINE

v.

VENUS Y. SPRINGS, Attorney,

Defendant

This matter was considered by a Hearing Panel of the Disciplinary Hearing Commission (“DHC”) composed of R. Lee Farmer, Chair, and members Stephanie N. Davis and Tyler B. Morris pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0108(a)(2). Plaintiff was represented by Carmen Hoyme Bannon. Defendant, Venus Y. Springs was represented by Eugene E. Lester III.

Based upon the pleadings in this matter, the parties’ stipulations of fact, and the evidence presented, the Hearing Panel hereby enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (“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 (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Venus Y. Springs, was admitted to the North Carolina State Bar in August, 2002 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Defendant was engaged in the practice of law in Charlotte, Mecklenburg County, North Carolina.

4. Defendant was properly served with the summons and complaint and received due notice of the hearing in this manner.

5. Defendant was the plaintiff in *Springs v. Ally Financial, Inc. et al*, a lawsuit filed in the U.S. District Court for the Western District of North Carolina in 2010. (The lawsuit is referred to hereafter as “the Ally Financial case”).

6. In the course of the Ally Financial case, Defendant deposed Amy Bouque as the corporate representative of Ally Financial in a 30(b)(6) deposition. The video of the 30(b)(6) deposition was not made part of the record in the Ally Financial case prior to the disposition of the case in the trial court in January 2012.

7. In January 2012, the U.S. District Court granted summary judgment for the defendants in the Ally Financial case. Defendant’s appeal of the District Court’s decision was concluded in 2012.

8. In or about February 2014, Defendant posted an approximately 37-minute video to her “Pro Se Advocate” YouTube page entitled “Amy Bouque Corporate Deposition: Best Ways to Tell if A Witness is Lying.”

9. The YouTube video consisted of excerpts from the Rule 30(b)(6) video deposition of Ally Financial witness Amy Bouque in the Ally Financial case with audio commentary by Defendant noting Bouque’s hand gestures and opining that those gestures indicated that the witness was lying.

10. Defendant publicized the video in a post to the social media site Twitter that read “Just posted—video on how to conduct a deposition and identify deceit.”

11. The defendants in the Ally Financial case asked Defendant to remove the video from YouTube, but Defendant did not do so.

12. In September 2014, the defendants in the Ally Financial case filed a motion for protective order seeking to have Defendant prohibited from disseminating and/or publishing the 30(b)(6) deposition video from the Ally Financial case. The motion was granted by a U.S. Magistrate Judge in December 2014.

13. The Magistrate Judge’s December 2014 order stated, “No party [to the Ally Financial case] shall publish or disseminate audio or video recordings obtained during discovery in this action without prior permission of the Court.” It also ordered Defendant to immediately remove any such audio or video recordings from YouTube and any other internet site.

14. Defendant filed a notice with the U.S. District Court indicating that she would only remove the deposition content from the internet “when ordered by an Article III judge.”

15. The Magistrate Judge’s order was upheld by the U.S. District Court on 6 February 2015. The Court’s February 2015 order required Defendant to comply with all aspects of the Magistrate’s December 2014 protective order.

16. Defendant subsequently removed the original 37-minute video from her YouTube page, but replaced it with a video comprised of still images from the deposition accompanied by narration from Defendant asserting (based on Bouque’s hand gestures) that Bouque was lying.

17. Both the original video published by Defendant and the modified video described in paragraph 16 above had no substantial purpose other than to humiliate or embarrass Bouque and/or Bouque's employer.

18. The Ally Financial defendants subsequently filed a motion for sanctions alleging that Defendant's publication of the content described in paragraph 16 above was in violation of the protective order.

19. During a 17 June 2015 hearing on that motion, the District Court stated "I am ordering you to take down every single video or audio of this or screen shot or anything about it that identifies it as being part of a deposition of these people in any way. No part of their deposition, no part, pictures, audio, any part of these depositions is to be on your website or be put out by you. None. Zero."

20. On 7 July 2015, the Court entered an order containing its rulings from the 17 June 2015 hearing, including ordering Defendant "one final time to fully comply with the protective order issued in this matter" and noting that Defendant had not "acted in entirely good faith."

21. On 26 July 2016, the Fourth Circuit vacated the magistrate judge's protective order and the District Court's 6 February 2015 order and remanded the matter to the District Court for a de novo review.

22. Upon a de novo review the District Court on 6 September 2016 entered an order containing the same prohibitions and directives as contained in the report and recommendation issued by the Magistrate Judge in December 2014.

23. Defendant appealed, and the 6 September 2016 order was affirmed by the Fourth Circuit on 11 April 2017. The District Court's 6 September 2016 order prohibiting Defendant from publishing or disseminating audio or video recordings obtained in discovery in the Ally Financial case was not stayed while the appeal was pending.

24. On 15 August 2017, Defendant's YouTube page contained a link after the sentence, "Watch this Youtube [sic] Video for an Ally Bank Deposition and How to Find Out if a Witness is Lying." The link took viewers to a video on a third-party's YouTube channel containing excerpts from Bouque's deposition with Defendant's commentary.

Based upon the evidence and the foregoing Findings of Fact, the Hearing Panel enters the following:

#### CONCLUSIONS OF LAW

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

2. Plaintiff failed to prove by clear, cogent, and convincing evidence that Defendant engaged in a course of action that prejudiced the administration of justice by protracted litigation, as alleged in paragraph (b) of the complaint.

3. 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)(2) in that she violated one or more of the Rules of Professional Conduct in effect at the time of her actions as follows:

- (a) By publishing material obtained in discovery in a manner that served no substantial purpose other than to humiliate or embarrass a participant in the judicial process, Defendant engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
- (b) By having a link on her YouTube Page that led to a third-party's posting of a video containing material from Bouque's video deposition on August 15, 2017, at least eleven months after the U.S. District Court's final protective order, Defendant knowingly disobeyed an obligation under the rules of the tribunal in violation of Rule 3.4(c).

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

#### ADDITIONAL FINDINGS REGARDING DISCIPLINE

- 1. The findings of fact in paragraphs 1-24 above are reincorporated as if set forth herein.
- 2. Defendant has no prior professional discipline.
- 3. It was foreseeable that accusing Bouque of lying under oath in a public forum would cause harm or potential harm to Bouque.
- 4. It is prejudicial to the administration of justice when lawyers unnecessarily harass and burden parties to litigation.
- 5. Defendant did not acknowledge that she engaged in wrongful conduct.

Based upon the Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, 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 and has considered all of the factors enumerated in 27 N.C. Admin. Code 1B .0116(f).
- 2. The Hearing Panel has considered all the factors enumerated in Rule .0116(f)(1) and concludes the following factors are applicable:
  - (a) intent of the defendant to cause the resulting harm or potential harm
  - (b) negative impact of the defendant's actions on the administration of justice; and
  - (c) effect of defendant's conduct on third parties.

3. The Hearing Panel has considered all the factors enumerated in Rule .0116(f)(2) and concludes no factors are present in this instance that would warrant disbarment.

4. The Hearing Panel has considered all the factors enumerated in Rule .0116(f)(3) and concludes the following factors are applicable:

- (a) absence of prior disciplinary offenses; and
- (b) refusal to acknowledge wrongful nature of conduct.

5. The Hearing Panel has considered issuing an admonition but concludes that such discipline would not be sufficient discipline because Defendant violated one or more provisions of the Rules of Professional Conduct and those violations were not minor, but the protection of the public does not require a censure.

6. The Hearing Panel further concludes that the public will be adequately protected by the issuance of a reprimand to Defendant.

7. Defendant should be taxed with the administrative fees and costs.


Based upon the foregoing Findings of Fact and Conclusions of Law and the Findings of Fact and Conclusions Regarding Discipline, the Hearing Panel enters the following:

#### ORDER OF DISCIPLINE

1. Defendant, Venus Y. Springs, is hereby REPRIMANDED for her misconduct.

2. Defendant shall pay all administrative fees and costs of this proceeding as assessed by the Secretary within 30 days after service of the statement of costs on her.

Signed by the Chair with the consent of the other Hearing Panel members, this the 6th day of June, 2019.



\_\_\_\_\_  
R. Lee Farmer  
Chair, Disciplinary Hearing Panel