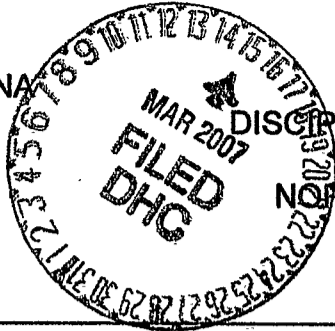


30624

NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
07 DHC 5

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )  
v. )  
TRACY T. HATCHER, Attorney, )  
Defendant )

CONSENT ORDER OF  
DISCIPLINE

This matter was considered by a Hearing Committee of the Disciplinary Hearing Commission composed of Sharon Alexander, Chair, M. Ann Reed, and R. Mitchel Tyler. Deputy Counsel Margaret Cloutier represented Plaintiff. Defendant was represented by Attorney Alan M. Schneider. Defendant has agreed to waive a formal hearing in the above referenced matter. The parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant also stipulates that he waives his right to appeal this consent order or challenge in any way the sufficiency of the findings by consenting to the entry of this order.

Based on the consent of the parties, the Hearing Committee hereby finds by clear, cogent and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar (hereinafter "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. Defendant, Tracy T. Hatcher (hereinafter "Hatcher" or "Defendant"), was admitted to the North Carolina State Bar on March 22, 2003, and is, and was at all relevant times herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations, and Revised Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During the times relevant herein, Defendant actively engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

4. Defendant is an owner of two condominium units in Shamrock Green Condominiums and is subject to dues assessed by Shamrock Green Homeowner's Association (hereinafter "Association").

5. The Board of Directors of the Shamrock Green Homeowners' Association (hereinafter "the Board") implemented a small increase in the homeowners' assessment for the 2000 calendar year.

6. A dispute arose between Defendant and the Board regarding Defendant's proper payment of the dues assessed to him.

7. In August 2000, an attorney for the Board filed a court action against Defendant for collection of accelerated assessments and related costs pursuant to the provisions of the bylaws of the Association.

8. In February 2001, Defendant was ordered to pay approximately \$5,200, which represented accelerated assessments on two units, attorney fees and other costs.

9. During the dispute, assessment and court action described above, the person interacting with Defendant on behalf of the Association and the Board was Lynn Frasure-Drake. Ms Frasure-Drake was the president of the Board and manager of the Association during that time. Sometime after the February 2001 order, Defendant came to believe that Ms Frasure-Drake was not duly authorized to act as representative of the Board and Association.

10. On February 20, 2004, Defendant filed a small claim action for hearing before a magistrate in Mecklenburg County Small Claims Court against Ms Frasure-Drake individually. In initiating the action, Defendant utilized a form entitled Complaint for Money Owed claiming that Frasure-Drake owed him \$4,000.00 for misrepresentation, fraud, negligence, unfair and deceptive trade practices, and other misconduct.

11. In his complaint filed with the court, Defendant did not set forth allegations against Ms Frasure-Drake in such manner as would enable a person of common understanding to know what is meant as required by N.C.G.S. §7A-216.

12. In his complaint filed with the court, Defendant did not set forth his claims with sufficient particularity to give the court or the opposing party notice of the transactions or occurrences showing that Defendant was entitled to relief as required by Rule 8(a)(1) of the North Carolina Rules of Civil Procedure.

13. In his complaint filed with the court, Defendant did not assert any facts to support his allegations of fraudulent conduct by Ms Frasure-Drake as required by Rule 9(b) of the North Carolina Rules of Civil Procedure.

14. The small claims court dismissed Defendant's claim, and he appealed it. An arbitration hearing was held on July 16, 2004, and the arbitrator dismissed Defendant's claims.

15. Before filing his complaint with the court, Defendant did not acquaint himself with the provisions of the applicable statutes and Rules of Civil Procedure sufficiently to enable him to adequately plead the claims he was attempting to assert.

16. Defendant's complaint filed with the court against Ms Frasure-Drake had no basis in law or fact.

Based on the foregoing Findings of Fact, the Committee enters the following

#### CONCLUSIONS OF LAW

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

2. Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that Defendant violated one or more of the Revised Rules of Professional Conduct in effect at the time of the actions as follows:

a) by filing with the court a pleading that did not comply with applicable provisions of the North Carolina General Statutes and Rules of Civil Procedure and by filing with the court a pleading that had no basis in law or fact, Defendant filed a frivolous claim in violation of Rule 3.1 of the Revised Rules of Professional Conduct; and

b) by filing with the court a pleading before appropriately acquainting himself with the proper procedure, Defendant failed to acquire the necessary legal knowledge, skill, thoroughness and preparation reasonably necessary under the circumstances in violation of Rule 1.1 of the Revised Rules of Professional Conduct.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Committee also enters the following

## FINDINGS REGARDING DISCIPLINE

1. The Hearing Committee finds no aggravating factors.
2. Defendant's misconduct is mitigated by the following factors:
  - (a) absence of a prior disciplinary record; and
  - (b) inexperience in the practice of law.
3. Although Defendant was acting on his own behalf when filing the court action described above, Defendant nevertheless had an obligation to adhere to the rules and regulations governing all attorneys in their interactions with clients, the courts, other attorneys and members of the public. Improper court filings such as Defendant's have the potential to undermine the public's trust in the abilities and/or competence of attorneys in general. In addition, the suit negatively affected the administration of justice by wasting the valuable time and resources of the court and Ms Frasure-Drake.
4. Given the harm, potential and actual, Defendant's conduct had on the administration of justice, the profession and the public, the Hearing Committee finds an Admonition would fail to acknowledge the seriousness of the offenses committed by Defendant and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar. However, the Hearing Committee finds and concludes that under the circumstances of this case Defendant's conduct does not require a Censure and that the public will be adequately protected by issuing a Reprimand to Defendant.

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

## ORDER OF DISCIPLINE

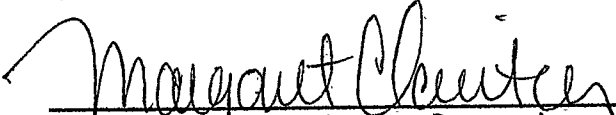
1. The Defendant, Tracy T. Hatcher, is hereby REPRIMANDED for his misconduct.

2. Defendant is taxed with the costs of this action as assessed by the Secretary and shall be paid within thirty days of service of the notice of costs upon the Defendant.

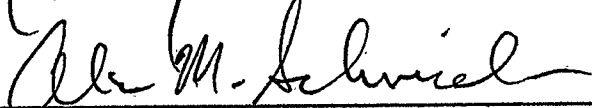
Signed by the undersigned Chair with the full knowledge and consent of the other members of the Hearing Committee, this 13 day of March, 2007.

  
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SHARON ALEXANDER, CHAIR  
HEARING COMMITTEE

CONSENTED TO:

  
\_\_\_\_\_  
Margaret Cloutier, Deputy Counsel  
Attorney for Plaintiff

  
\_\_\_\_\_  
Tracy T. Hatcher, Defendant

  
\_\_\_\_\_  
Alan M. Schneider, Attorney for Defendant