

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
91 DHC 21

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
)
v.)
)
KURT R. CONNER, ATTORNEY)
Defendant)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This matter came on to be heard and was heard on February 14, 1992 before a hearing committee of the Disciplinary Hearing Commission composed of Maureen Demarest Murray, Chairman; James Lee Burney, and Stephen T. Smith. The North Carolina State Bar was represented by Fern E. Gunn and the Defendant was represented by John E. Hall. Based upon the admissions of the Defendant deemed from the default entered by the Secretary on January 22, 1992 due to Defendant's failure to file an answer or other pleading in this matter, the hearing committee finds the following:

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, Kurt R. Conner, was admitted to the North Carolina State Bar on September 18, 1961, 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 periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in North Wilkesboro, Wilkes County, North Carolina.
4. The Defendant did not file federal income tax returns for calendar years 1985, 1986, and 1987.

5. Defendant pled guilty to a three-count Bill of Information charging failure to file federal income tax returns for 1985-1987.
6. The Defendant was found guilty and placed on 5-years probation by U.S. District Court Judge Graham C. Mullen on May 3, 1991. Defendant was ordered to pay all taxes, interest, and penalties associated with tax years 1985, 1986, and 1987.
7. The crime of which the Defendant was convicted is a serious crime as defined in Section 3(30) of Article IX of the Rules and Regulations of the North Carolina State Bar (The Red Book).
8. Michael L. Jordan (Jordan) retained the Defendant for representation in a divorce action. On April 3, 1989, Jordan paid \$235.00 to Defendant as his attorney's fee.
9. Defendant told Jordan that he (Jordan) would obtain a divorce 30 days after his payment of Defendant's fee.
10. Jordan has written several letters to Defendant in an attempt to get information about his divorce case.
11. Defendant has not responded to Jordan's letters.
12. Defendant has not obtained Jordan's divorce.
13. As of the filing of the complaint before the Disciplinary Hearing Commission, Defendant had not refunded the attorney's fee that Jordan paid to him. Defendant refunded the attorney's fee to Jordan the day before the Disciplinary Hearing Commission hearing.
14. Defendant was served by certified mail with a Letter of Notice regarding Jordan's grievance (91G0227(III)) on April 18, 1991. Defendant did not respond to the Letter of Notice within 15 days of receiving it as required by the rules and regulations of the North Carolina State Bar.
15. The Plaintiff mailed a follow-up letter dated June 6, 1991 to Defendant. Defendant was asked to respond to Jordan's grievance by June 17, 1991. Defendant did not respond to the grievance by June 17, 1991.
16. Defendant was served by certified mail with a Subpoena to Produce Documents or Objects regarding Jordan's grievance on July 29, 1991. Defendant was ordered to appear at the North Carolina State Bar office on August 21, 1991 to respond to Jordan's grievance. Defendant did not comply with Plaintiff's Subpoena.

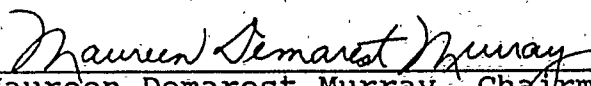
17. Defendant was served by certified mail with a Letter of Notice regarding his failure to file federal income tax returns (91G 0348(I)) on May 28, 1991. Defendant did not respond to the Letter of Notice within 15 days of receiving it as required by the rules and regulations of the North Carolina State Bar.
18. Defendant was mailed by certified mail a Subpoena to Produce Documents or Objects regarding grievance number 91G 0348(I) on September 4, 1991. Defendant refused to claim the subpoena from the post office.

Based upon the foregoing Findings of Fact, the hearing committee makes the following CONCLUSIONS OF LAW:

1. By failing to file federal income tax returns for 1985, 1986, and 1987, the Defendant has engaged in conduct involving dishonesty in violation of Rule 1.2(C) and the Defendant committed a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in other respects in violation of Rule 1.2(B).
2. By the conviction of the Defendant of three-counts of failure to file federal income tax returns, the Defendant has engaged in conduct involving dishonesty in violation of Rule 1.2(C) and he has committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects in violation of Rule 1.2(B).
3. By failing to obtain a divorce for his client, Defendant has failed to act with reasonable diligence and promptness in representing his client in violation of Rule 6(B)(3); has failed to seek the lawful objectives of his client through reasonably available means permitted by law and the Rules of Professional Conduct in violation of Rule 7.1(A)(1); has failed to carry out a contract of employment entered into with a client for professional services in violation of Rule 7.1(A)(2); and has prejudiced or damaged his client during the course of the professional relationship in violation of Rule 7.1(A)(3).
4. By failing to communicate with Jordan about his divorce action in the last two years, Defendant has failed to keep his client reasonably informed about the status of a matter and promptly comply with reasonable requests for information in violation of Rule 6(B)(1).

5. By failing to return the unearned portion of fee paid to him by Jordan until the day before the hearing before the Disciplinary Hearing Commission, Defendant has failed to refund promptly any part of a fee paid in advance that has not been earned in violation of Rule 2.8(A)(3).
6. By failing to respond to the Letters of Notice, follow-up letter and Subpoenas regarding two grievances, Defendant has failed to respond to a lawful demand for information from a disciplinary authority in violation of Rule 1.1(B).

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee, this the 24th day of February 1992.



Maureen Demarest Murray, Chairman
Disciplinary Hearing Commission

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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
91 DHC 21

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

KURT R. CONNER, ATTORNEY
Defendant

ORDER

This cause being heard by the undersigned Chairman of a hearing committee of the Disciplinary Hearing Commission on motion of the Plaintiff, North Carolina State Bar, for the correction of an Order of Discipline, specifically the Findings of Fact, in the case of The North Carolina State Bar v. Kurt R. Conner. The Findings of Fact were previously entered on February 24, 1992 and it appears to the undersigned that sufficient grounds exist for the correction of said Findings of Fact.

It is therefore ordered that the Findings of Fact are hereby amended by adding the following three paragraphs to those Findings of Fact which were entered on February 24, 1992:

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, Kurt R. Conner, was admitted to the North Carolina State Bar on September 18, 1961, 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 periods referred to herein, the Defendant was actively engaged in the practice of law in the State of North Carolina and maintained a law office in North Wilkesboro, Wilkes County, North Carolina.

It is further ordered that the corrected Findings of Fact, along with the Conclusions of Law should bear the same date as those which were previously entered on February 24, 1992. The actual Order of Discipline shall be unchanged. Kurt R. Conner and his attorney, John E. Hall, shall be served with a copy of the corrected Findings of Fact (and Conclusions of Law). The effective date of the Order of Discipline is not changed because of the corrected Findings of Fact.

This the 10th day of March, 1992.

Maureen Demarest Murray
Maureen Demarest Murray, Chairman
Disciplinary Hearing Commission

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NORTH CAROLINA

WAKE COUNTY

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BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
91 DHC 21

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

KURT R. CONNER, ATTORNEY
Defendant

ORDER OF DISCIPLINE

This cause was heard on February 14, 1992 by a duly appointed hearing committee of the Disciplinary Hearing Commission consisting of Maureen Demarest Murray, Chairman; James Lee Burney, and Stephen T. Smith. In addition to the Findings of Fact and Conclusions of Law made of even date herewith, the hearing committee makes additional Findings of Fact as follows:

ADDITIONAL FINDINGS OF FACT

1. The Defendant has not filed federal income tax returns for calendar years 1988, 1989, and 1990. Defendant has not been charged with criminal misconduct for his failure to file federal income tax returns for those years.
2. The Defendant has failed to file state income tax returns for calendar years 1985 - 1990. The Defendant has not been charged with criminal misconduct relative to his failure to file state income tax returns for those years.
3. On December 11, 1991, a petition to revoke the Defendant's probation was filed by the Defendant's probation officer, James R. McLean, Jr. The Defendant was cited in the petition for his failure to make any payments on his outstanding tax liability as ordered by the court and for his failure to submit monthly supervision reports to his probation officer. The Defendant admitted that he has not made any payments on his outstanding tax liability and that he has failed to submit monthly supervision reports to his probation officer. As of the date of this disciplinary hearing, the federal court had not ruled on the revocation of Defendant's probation.
4. The following aggravating factors exist in

Defendant's case:

- a) a pattern of misconduct;
- b) multiple offenses;
- c) substantial experience in the practice of law;
- d) failure to cooperate with the State Bar in the investigation of the grievances at issue in this case;
- e) two prior disciplines issued by the State Bar (a Public Censure and Private Reprimand); and
- f) an indifference to making restitution to the federal government for his tax obligation and an indifference to making restitution to Michael L. Jordan until one day prior to the hearing of this matter when a check for \$235.00 was mailed to Jordan.

Based upon the Findings of Fact and Conclusions of Law entered in this case and the further findings of fact set forth above, the hearing committee enters the following ORDER OF DISCIPLINE:

1. The Defendant is suspended from the practice of law for a period of five years. All of the five-year suspension is stayed but two years, said two years being an active suspension of the Defendant's license.
2. As conditions precedent to Defendant's reinstatement at the expiration of the two-year suspension, the Defendant shall seek psychological evaluation and follow the health care provider's recommended course of treatment. The health care provider who provides such psychological evaluation and treatment shall annually report to the State Bar about the Defendant's treatment and progress during the two-year suspension. The Defendant shall comply with all conditions of his federal probation. Furthermore, the Defendant shall file all federal and state income tax returns as required by law for calendar years 1985 - 1990 and remain current on the filing of his federal and state tax returns and comply with any court order concerning payment of taxes.
3. Defendant is taxed with the costs in this matter as assessed by the Secretary.

Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee, this the 24th day of February, 1991.


Maureen Demarest Murray, Chairman
Hearing Committee