

NORTH CAROLINA

WAKE COUNTY



2617

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

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

ARTHUR L. LANE, Attorney
Defendant

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

This cause scheduled to be heard on May 19, 1995 before a hearing committee composed of Frank E. Emory, Jr., Chair, Robert B. Smith, and A. James Early, III; with A. Root Edmonson representing the N. C. State Bar and Ronnie M. Mitchell representing Arthur L. Lane; and based upon the consent of the parties as evidenced by the signatures on this document, the hearing committee finds the following to be supported by clear, cogent, and convincing evidence:

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, Arthur L. Lane (hereinafter Lane), was admitted to the North Carolina State Bar on October 22, 1952, 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 the City of Fayetteville, Cumberland County, North Carolina.

4. Lawrence Norton died on January 15, 1986 in Scotland County, NC. Subsequent to his death, his son, Teab Norton, attempted to have a paper writing probated as Lawrence Norton's last will and testament. An order of the Clerk of Superior Court of Scotland County denying probate was appealed. A trial on issues relating to whether the paperwriting propounded by Teab

Norton should be probated as Lawrence Norton's last will and testament was subsequently conducted before Judge Dexter Brooks in February, 1989. After a jury found the issues in favor of the propounder, Judge Brooks entered a judgment notwithstanding the verdict in favor of the respondents. On appeal, the North Carolina Supreme Court affirmed Judge Brooks' judgment.

5. The paperwriting propounded by Teab Norton left certain real property to another son of Lawrence Norton, Alton Norton.

6. After the Supreme Court issued its opinion in the case on December 6, 1991, a partition proceeding was commenced in Scotland County to divide the real property Lawrence Norton owned at his death.

7. On April 1, 1992, Alton Norton (hereinafter Norton) employed Lane to represent his interests in determining whether his father had employed attorney Ed Johnston to prepare deeds conveying his real property to his various children and whether those deeds had been delivered to the Clerk of Superior Court of Scotland County prior to Lawrence Norton's death. Norton believed that since those deeds had been executed and delivered, there was no real property that needed to be partitioned.

8. On April 1, 1992, Norton paid Lane \$1,000.00 as a retainer fee in the matter.

9. On May 12, 1992, Norton paid Lane another \$500.00 to Lane.

10. On June 19, 1992, Norton paid Lane another \$1,000.00.

11. On July 20, 1992, Norton paid Lane another \$500.00.

12. On August 12, 1992, Norton paid Lane another \$100.00.

13. Norton asked Lane to communicate with him to advise him about the results of his inquiries into the suspected deeds executed by his father.

14. Lane did not provide Norton any written communication other than a letter dated November 4, 1992.

15. Norton did receive some benefit from the services provided by Lane after Lane's initial inquiries into the matter with Ed Johnston and the Clerk of Superior Court of Scotland County, C. Whitfield Gibson. However, after Lane's initial inquiries into the matter, Lane should have advised Norton of the limited value of additional legal services rather than perform additional services at the insistence of Norton.

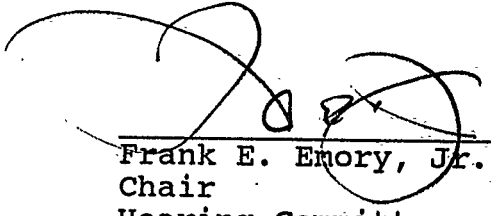
BASED UPON the foregoing Findings of Fact, the hearing committee makes the following:

CONCLUSIONS OF LAW


The conduct of the Defendant, as set out above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. Sec. 84-28(b)(2) in that Defendant's conduct violates the N. C. Rules of Professional Conduct as follows:

- a) By charging Norton \$3,100.00 for the limited legal services he was able to provide for Norton, Lane charged and collected a clearly excessive fee in violation of Rule 2.6(A).

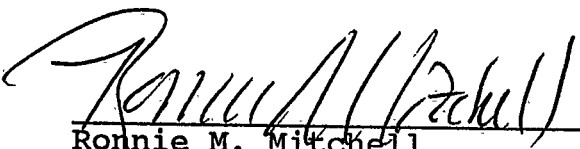
Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this the 19th day of May, 1995.


Frank E. Emory, Jr.
Chair
Hearing Committee

CONSENTED TO:


A. Root Edmonson
Deputy Counsel
North Carolina State Bar


Arthur L. Lane


Ronnie M. Mitchell
Attorney for the Defendant

NORTH CAROLINA
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ORDER
OF
DISCIPLINE

Based upon the Findings of Fact and Conclusions of Law of even date herewith; and further based upon the consent of the parties as evidenced by their signatures on this document, the hearing committee, composed of Frank E. Emory, Jr., Chair, Robert B. Smith, and A. James Early, III, finds the following:

FACTORS IN AGGRAVATION

1. Prior Private Reprimands (currently termed Admonitions) from the Grievance Committee in 1979 and 1988 for neglect.
2. Vulnerability of the victim.

FACTORS IN MITIGATION

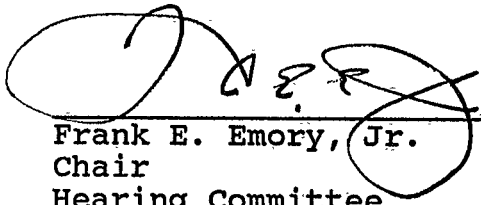
1. Restitution of one half of the fees charged to Norton.
2. Extensive public service in his career.
3. Good character and reputation.

BASED UPON all of the factors listed above, the hearing committee enters the following ORDER OF DISCIPLINE:


1. The Defendant, Arthur L. Lane, is hereby ADMONISHED to carefully consider the provisions of Rule 2.6(A) on charging or collecting fees and to refrain from charging or collecting a clearly excessive fee.


3. The Defendant is taxed with the costs of this hearing as taxed by the Secretary.


Signed by the undersigned Chairman with the full knowledge and consent of the other members of the hearing committee this the 19th day of May, 1995.


Frank E. Emory, Jr.
Chair
Hearing Committee

CONSENTED TO:


A. Root Edmonson
Deputy Counsel
North Carolina State Bar


Arthur L. Lane


Ronnie M. Mitchell
Attorney for the Defendant