

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 14

THE NORTH CAROLINA STATE BAR,)
Plaintiff)
v.)
STEPHEN L. BEAMAN, ATTORNEY)
Defendant)

FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

THIS CAUSE was heard by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar consisting of John G. Shaw, Esq., Chairman, Emily Turner and Robert C. Bryan, Esq. on December 30, 1988. The Plaintiff was represented by Carolin Bakewell and the Defendant was represented by Lacy M. Presnell and Allen G. Thomas. Based upon the pleadings, the pre-hearing stipulations and the evidence, the Committee makes the following Findings of Fact:

1. The Defendant, Stephen L. Beaman, was admitted to the North Carolina State Bar in 1974 and was at all relevant 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.

2. During the relevant periods herein mentioned, 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 Wilson, Wilson County, North Carolina.

3. Between the spring of 1985 and approximately August 1986, the Defendant represented Thomas and Ellen Green.

4. During his representation of the Greens, the Defendant discussed the Greens' financial problems, including their assets and liabilities.

5. During his representation of the Greens, the Defendant learned that the Greens were the holders of a promissory note executed by one Barbara Holt and that the Greens had conveyed certain property, including a cucumber station and a lake lot, to their daughter, Patty Green, in 1984.

6. After a final conference with the Defendant in approximately July 1986, the Greens failed to return for any further appointments, and the Defendant concluded that they no longer wished him to represent them by August, 1986.

7. As of their last conference in July, 1986, the Defendant believed that the Greens owed him \$2,125.59 in attorneys' fees.

8. Between August, 1986 and April, 1987, the Defendant took no action to attempt to collect the attorneys' fees owed to him, other than sending monthly bills to the Greens.

9. On April 5, 1987, the Greens, then represented by Joseph T. Howell, filed a petition in bankruptcy.

10. The Greens' petition in bankruptcy listed the Defendant as a creditor and listed the \$2,125.59 in attorneys' fees as a disputed debt.

11. The Defendant was aware that he had been listed as a creditor in the Greens' bankruptcy petition and filed a proof of claim after April 5, 1987.

12. On August 5, 1987, the Defendant sent a letter to the Greens' attorney, providing, in pertinent part, as follows:

As you know I have previously represented Mr. and Mrs. Green and have filed a Proof of Claim in their case for fees due us in the amount of \$2,125.59.

As you know, client confidences do not apply as between an attorney and a client when the collection of a fee is involved.

In reviewing the petition of the Greens I fail to note any mention of a Promissory Note from Barbara Holt in the approximate amount of \$22,000.00 payable at the rate of \$522.50 per month, nor is there any reference to the transfer of a storage building, warehouse, and cucumber station to Patty Green sometime in 1984, along with the transfer of a lake lot on Lake Gaston to Patty Green. Patty Green is the daughter of Mr. and Mrs. Green.

I have not publicly raised any of these questions at this point. If we can reach some satisfactory agreement with respect to the handling of the balance due to us, then this matter may, in fact, be put to rest.

I look forward to hearing from you in the next several days.

Sincerely yours,

STEPHEN L. BEAMAN, P.A.

Stephen L. Beaman

13. The Defendant did not investigate the Greens' transactions

00303

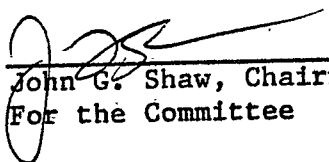
regarding the Holt note or the Patty Green matters other than writing the August 5, 1987 letter.

14. The Defendant has an excellent personal and professional reputation in his community and has not been the subject of prior discipline by the N.C. State Bar.

Based upon the foregoing Findings of Fact, the Committee makes the following Conclusion of Law:

(a) By sending the above threatening letter to the Greens' attorney, the Defendant engaged in conduct prejudicial to the administration of justice, and thereby violated Rule 1.2(D) of the Rules of Professional Conduct.

This the 30 day of January, 1989.


John G. Shaw, Chairman
For the Committee

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
88 DHC 14

IN THE MATTER OF STEPHEN L. BEAMAN,)
ATTORNEY AT LAW)

PUBLIC CENSURE

This Public Censure is delivered to you pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar as ordered by a Hearing Committee of the Disciplinary Hearing Commission following a hearing on December 30, 1988, at which the Hearing Committee found that you violated certain of the Rules of Professional Conduct of the North Carolina State Bar.

Between the spring of 1985 and approximately July, 1986, you represented two clients, Mr. and Mrs. X, regarding certain financial matters. Following a final conference in July, 1986, Mr. and Mrs. X did not return for further appointments and by August, 1986, you believed that Mr. and Mrs. X no longer wished you to represent them. During the course of your representation of Mr. and Mrs. X, you learned that they held a promissory note from one Barbara Y and had transferred certain assets to Patty Z, the Xs' daughter, in 1984.

As of August, 1986, you believed that Mr. and Mrs. X owed you \$2,125.59 in attorneys fees. Between August, 1986 and April 1, 1987, you took no steps to collect this fee, other than sending monthly bills to the Xs.

In early April, 1987, Mr. and Mrs. X, then represented by other counsel, filed a petition in bankruptcy. The petition listed you as a creditor and listed the \$2,125.59 attorney fee as a disputed debt.

Thereafter, you filed notice of a proof of claim with the bankruptcy court. On August 5, 1987, you wrote a letter to the Xs' new attorney, which provided, in pertinent part, as follows:

As you know I have previously represented Mr. and Mrs. [X] . . . and have filed a Proof of Claim in their case for fees due us in the amount of \$2,125.59.

As you know, client confidences do not apply as between an attorney and a client when the collection of the fee is involved.

In reviewing the petition of the [X family] . . . I fail to note any mention of a Promissory Note from Barbara [Y] . . . in the approximate amount of \$22,000.00 payable at the rate of \$522.50 per month, nor is there any reference to the transfer of a store building, warehouse, and cucumber station to Patty [Z] .

00305

. . sometime in 1984, along with the transfer of a lake lot on Lake Gaston to Patty [Z] Patty [Z] is the daughter of Mr. and Mrs. [X]. . . .

I have not publicly raised any of these questions at this point. If we can reach some satisfactory agreement with respect to the handling of the balance due to us, then this matter may, in fact, be put to rest.

I look forward to hearing from you in the next several days.

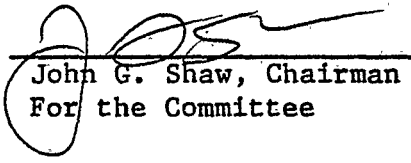
By writing the August 5, 1987 letter, you engaged in conduct prejudicial to the administration of justice in violation of Rule 1.2(D).

In deciding to publicly censure you for this conduct, rather than impose a suspension of your license, the Hearing Committee took into account the fact that you have no prior record of disciplinary offenses and have an excellent reputation in your community.

The North Carolina State Bar is confident that this Public Censure will be heeded by you, that it will be remembered by you, and that it will be a benefit to you.

Pursuant to Section 23 of the Rules of Disciplinary Procedure, it is ordered that a certified copy of this Public Censure be entered upon the judgment docket of the Superior Court of Wake County and also upon the minutes of the Supreme Court of North Carolina. *Wilson sus*

This the 30 day of January, 1989.


John G. Shaw, Chairman
For the Committee