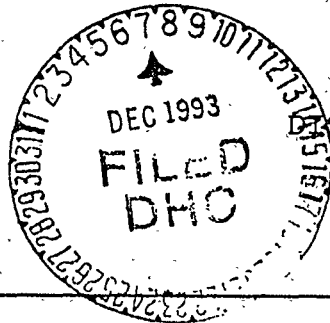


5583

NORTH CAROLINA

WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

CHARLES F. EAKES, ATTORNEY
Defendant

FINDINGS OF FACT
AND CONCLUSIONS OF LAW

This matter was heard on Nov. 2, 1993 by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of Samuel Jerome Crow, Chair; A. James Early III and Rebecca Blackmore. The Defendant, Charles F. Eakes, was represented by Joseph B. Cheshire V and Alan M. Schneider. The North Carolina State Bar was represented by Carolin Bakewell. Based upon the pleadings, stipulations and the evidence presented in this matter, the Hearing Committee makes the following:

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, Charles F. Eakes, was admitted to the North Carolina State Bar in 1973, 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, Eakes was actively engaged in the practice of law in the State of North Carolina and maintained a law office in the City of Winston-Salem, Forsyth County, North Carolina.

4. Eakes did not file federal or state income tax returns for the calendar years 1989, 1990 and 1991 on a timely basis.

5. On July 26, 1993, Eakes pled guilty to three counts of misdemeanor failure to file state income tax returns for the

00211

calendar years 1989, 1990 and 1991.

6. Eakes was convicted of the charges set out in paragraph 5 on July 26, 1993 in Wake County District Court. The criminal judgment became final as of Oct. 12, 1993.

Based upon the foregoing Findings of Fact, the Hearing Committee hereby makes the following

CONCLUSIONS OF LAW

1. By failing to file timely income tax returns for calendar years 1989 - 1991, Eakes committed criminal acts which reflect adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, in violation of Rule 1.2(B) of the Rules of Professional Conduct and engaged in conduct involving dishonesty in violation of Rule 1.2(C) of the Rules of Professional Conduct.

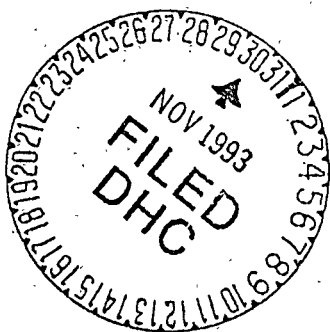
This the 15th day of November, 1993.

Samuel Jerome Crow
Samuel Jerome Crow, Chair
Disciplinary Hearing Committee

Rebecca N. Blackmore
Rebecca Blackmore

A. James Early, III
A. James Early, III

NORTH CAROLINA
WAKE COUNTY



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

THE NORTH CAROLINA STATE BAR,
Plaintiff

vs.

CHARLES F. EAKES, ATTORNEY
Defendant

ORDER OF DISCIPLINE

This matter was heard on Nov. 2, 1993 by a Hearing Committee of the Disciplinary Hearing Commission of the North Carolina State Bar composed of Samuel Jerome Crow, Chair; A. James Early III and Rebecca Blackmore. Based upon the Findings of Fact and Conclusions of Law and based upon the evidence presented and arguments made during the second phase of the hearing, the Hearing Committee makes the following

FINDINGS IN MITIGATION
AND AGGRAVATION

1. The Defendant's misconduct is mitigated by the following factors:

- a. Defendant has no prior discipline.
- b. Defendant had personal and emotional problems at the time of the misconduct.
- c. Defendant cooperated with the N.C. State Bar.
- d. Defendant has a good reputation and good character.
- e. Defendant has received prior punishment and penalties in the criminal proceeding based upon his failure to file timely tax returns.

2. The Defendant's conduct is aggravated by the following factors:

- a. The Defendant engaged in multiple violations of the Rules of Professional Conduct.

- b. The Defendant has substantial experience in the practice of law.
- c. The Defendant's failure to file timely state and federal tax returns involved a dishonest or selfish motive.

Based upon the Findings of Fact and Conclusions of Law and the foregoing aggravating and mitigating factors, the Hearing Committee enters the following:

ORDER OF DISCIPLINE

1. The Defendant's license to practice law is hereby suspended for three years, which suspension shall be stayed for three years on the following conditions:

- a. Defendant shall file all state and federal income tax returns and pay all taxes in a timely fashion throughout the three year period following the effective date of this order.
- b. Within 10 days of filing tax returns and paying all taxes due, Defendant shall certify in writing to the Counsel of the N.C. State Bar that he has filed timely state and federal tax returns and has paid all taxes due.
- c. Defendant shall provide quarterly written reports to the Counsel of the N.C. State Bar listing payments made in the previous three months to satisfy the Defendant's obligations to the state and federal taxing obligations arising out of his failure to file tax returns for the years 1989 - 1991. The reports shall be due on Jan. 1, April 1, July 1 and Oct. 1 of each of the three years following the effective date of this order, or until the obligations are fully repaid, whichever comes first.
- d. Defendant shall violate no laws and shall violate no provisions of the Rules of Professional Conduct during the three years following the effective date of this order.
- e. During each of the three years following the effective date of this order, Defendant shall perform 150 hours of pro bono legal services through the Forsyth County Legal Aid Program or a similar legal aid program approved by the Counsel of the N.C. State Bar.
- f. During each of the three years following the effective date of this order, Defendant shall provide monthly written reports to the Counsel of

the N.C. State Bar listing the amount of pro bono services which he has performed pursuant to section 1(e) of this Order.

2. The Defendant shall pay the costs of this proceeding.

This the 15th day of November, 1993.

Samuel Jerome Crow
Samuel Jerome Crow, Chair

Rebecca M. Blackmore
Rebecca Blackmore

I dissent:

A. James Early III
A. James Early III