

IN RE FRITH, 1986-NMSC-003, 103 N.M. 792, 715 P.2d 65 (S. Ct. 1986)

IN THE MATTER OF GILBERT H. FRITH

No. 16092

SUPREME COURT OF NEW MEXICO

1986-NMSC-003, 103 N.M. 792, 715 P.2d 65

January 06, 1986

COUNSEL

Virginia Ferrara, Chief Disciplinary Counsel, Albuquerque, New Mexico, for Disciplinary Board.

The Honorable Mack Easley, Santa Fe, New Mexico, for Respondent.

OPINION

{1} This matter having come before this Court after completion of disciplinary proceedings conducted pursuant to NMSA 1978, Rules Governing Discipline (Repl. 1985), wherein Attorney Gilbert H. Frith (Frith) was found to have engaged in several acts of misconduct, the Court adopts the findings and recommendations of the Disciplinary Board.

{2} In the Fall of 1983, Frith filed a lawsuit on behalf of Houston Lumber Co. against Campbell Housing Corporation, Inc., (CHC) to collect on an alleged debt. At the time, Frith was not only the attorney for Houston Lumber, but also its president and a substantial shareholder of the company. During the pendency of the action against CHC, Frith contacted certain state agencies and other organizations to question CHC's fitness to do business in New Mexico and wrote to the attorney for CHC regarding its various pending applications, asserting that certain criminal penalties could be imposed against CHC.

{3} Frith also called an employee at CHC and identified himself as "Bob Smith". During the course of the telephone conversation, Frith implied that criminal charges were or would be pending in New Mexico against CHC. One purpose of the call was to gain an advantage in the pending civil litigation against CHC. When later deposed by CHC's attorney and while under oath, Frith falsely stated that he could not recall having made such a telephone call.

{4} Such conduct is prejudicial to the administration of justice, adversely reflects on Frith's fitness to practice law and involves dishonesty, deceit and misrepresentation in

violation of NMSA 1978, Code of Prof. Resp. Rules 1-102(A)(4), 1-102(A)(5), and 1-102(A)(6) (Repl. 1985).

{5} IT IS THEREFORE ORDERED that:

1. Frith shall be suspended from the practice of law for a period of 120 days commencing on January 10, 1986.
2. Frith must take and receive a passing score on the Multi-State Professional Responsibility Examination.
3. If Frith does not pass the Multi-State Professional Responsibility Examination within the suspension period, the suspension shall be extended until such time as Frith passes the examination.
4. Frith shall pay the costs of this action in the amount of \$658.72.

{6} This order shall be published in both the **New Mexico Reports** and the **News and Views** of the State Bar of New Mexico.

{7} IT IS SO ORDERED.